

FACE SHEET

(OAL-4)

84-1205-3
(See Instructions on Reverse)

ORD #384-10

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED FOR FILING

DEC 5 3 06 PM '84

OFFICE OF
ADMINISTRATIVE LAW

FILED

JAN 4 1985

Office of Administrative Law

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1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JAN 4 - 1985

At 4:19 o'clock P.M.

MARCH FONG EU, Secretary of State

By Marjorie Washburn
Deputy Secretary of State

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AGENCY CONTACT PERSON AND POSITION
Angie Teixeira, Regulations Analyst

TELEPHONE
323-0884

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: 22

SECTIONS ADOPTED

63-407.9 and .91

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☒ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

June 29, 1984

b. DATE OF ADOPTION OF REGULATION(S)

November 27, 1984

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Adopt Section 63-407.9 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

.9 Optional Food Stamp Workfare

.91 Counties shall be permitted to operate the Food Stamp Workfare Program in accordance with the requirements of Title 7 of the Code of Federal Regulations, Section 273.22.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10553, 7 USC Section 2029, and 7 CFR Section 273.22.

FACE SHEET
(OAL-4)

(See Instructions on Reverse)
84-1205-3
ORD #384-10

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED FOR FILING

DEC 5 3 07 PM '84

OFFICE OF
ADMINISTRATIVE LAW

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

Jinda S. McKelton

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

LEAVE BLANK

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION
Angie Teixeira, Regulations Analyst

TELEPHONE
323-0884

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: _____

SECTIONS ADOPTED

63-407.9 and .91

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☒ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

June 29, 1984

b. DATE OF ADOPTION OF REGULATION(S)

November 27, 1984

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date *later than* 30 days after filing with the Secretary of
State.)

FILED
In the office of the Secretary of State
of the State of California

JAN 7 - 1985
At 4:00 o'clock P. M.
MARCH FONG EU, Secretary of State
By Cadence Patrick
Deputy Secretary of State

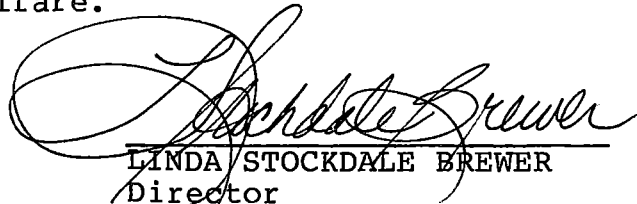
ORDER OF REPEAL

GOVERNMENT CODE SECTION 11349.6(b)

The adoption of sections 22-023.111, 22-023.112, 22-023.112, 22-023.113, 22-023.114, 22-023.115, 63-804.631(b) and (c), the amendments to sections 22-001.121(a), (b) and (c), 22-001.7, 22-003.2, 22-003.22, 22-023.11, 63-804.631 and 63-804.632 and the repeal of sections 22-023.111 and 22-023.112 of the Manual of Policies and Procedures, which were adopted by the Secretary of State on December 31, 1984, effective January 1, 1985, are hereby repealed pursuant to Government Code section 11349.6(b).

The Department of Social Services has not provided specific facts showing the need for immediate action, and the regulations are not necessary for the immediate preservation of the public peace, health and safety, or general welfare.

DATED: January 7, 1985.


LINDA STOCKDALE BREWER
Director

ENDORSED
APPROVED FOR FILING
JAN 7 1985

Office of Administrative Law

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

RECEIVED FOR FILING

DEC 14 10 44 AM '84

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JAN 10 1985

Office of Administrative Law

LEAVE BLANK

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

ORD#1083-64
Resubmission

84-1214-1

FILED

In the office of the Secretary of State
of the State of California

JAN 10 1985

At 10:02 o'clock P.M.

MARCH FONG EU, Secretary of State

By: *Charles H. Hattick*
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Harry Baertschi, Regulations Analyst

TELEPHONE

5-7054

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: MPP SECTIONS AMENDED 41-440.12, 41-440.45, 44-103.115, 44-103.23 and .24
44-206 (Heading) and 44-206.1
MPP SECTIONS ADOPTED 44-103.116, .117 and .118; 44-206.1(m) and (n) and
44-206.25 and .26
MPP SECTIONS REPEALED 44-206.21 and 44-440.26

3. TYPE OF ORDER (CHECK ONE)

- ☒ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

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- ☐ No ☐ Yes

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7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER
May 4, 1984

b. DATE OF ADOPTION OF REGULATION(S)
December 11, 1984

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))
11/23/84 to 12/7/84

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

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Renumber and Amend Section 41-440.12 to read:

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS

41-440

•1 Definition (Continued)

•12 State-only AFDC-U Program

*121(a) * The family of a parent who is unemployed, as specified in Section 41-440.11, may be eligible for benefits under the State-only AFDC-U Program if the county determines that:

†1(1) Neither parent in the home is employed full-time; and

†1(2) Neither parent can meet the requirements for federal financial participation specified under Section 41-440.4, and

†1(3) Deprivation is due to the unemployment of whichever parent in the home in which both parents are living, is the principal earner.

*122(b) Except as provided in †1(1) below, for State-only AFDC-U program purposes, the principal earner shall be determined by the family:

†1(1) If the family fails to designate the principal earner the county shall make the determination as follows:

†1(A) If at least one of the parents has work or training experience which is applicable towards acquiring a connection with the labor force, as specified in Section 41-440.43, the county shall designate as the principal earner that parent who has the best potential for establishing a connection with the labor force; or.

†1(B) If neither parent has any work or training experience which is applicable towards acquiring the connection with the labor force, as specified in Section 41-440.43, the

principal earner shall be whichever parent the county designates.

*123(c) Once the principal earner has been determined, that parent continues to be the principal earner for each consecutive month for which the family receives State-only AFDC-U benefits except when a change in the principal wage earner would allow the family to qualify for federal financial participation when the other parent meets the definition of principal earner in accordance with Section 41-440.411 and qualifies for federal AFDC-U in accordance with Section 41-440.4.

*124(d) Eligibility for State-only AFDC-U program benefits shall not exceed three months in any 12 consecutive month period except that for those families who receive EA-UP (see Section 41-500), eligibility under this program shall be limited to two months in any 12 consecutive month period.

HANDBOOK

(1) Persons receiving EA-UP or State-only AFDC-U on the effective date of these regulations, if otherwise eligible, shall be eligible as a person to receive up to 30 days of EA-UP and three months of State-only AFDC-U during the 12 consecutive month period which began on the beginning date of aid.

*125(e) The eligibility period shall be determined as follows:

*125(1) Emergency Assistance program benefits under Section 41-500 cannot be paid to a pregnant woman, one person FBU, or to cover the pregnancy special need payment (Section 44-205.2 and 44-211.4). When a pregnant woman, and unborn child, if born and living with the mother, would be eligible to receive State-only AFDC-U program benefits, the pregnant woman shall be eligible to receive up to three months of State-only AFDC-U benefits during the 12 consecutive month period which commences on the beginning date of aid.

*126(f) If a person's aid is discontinued prior to the expiration of his/her eligibility period (see Section *125 (e) above) aid may be restored later

for a period of no more than the remaining portion of his/her eligibility period.

*127(g) A person's eligibility period commenced on the beginning date of aid and, if otherwise eligible, expires after three months of aid has been received. That eligibility period may expire on any date prior to the end of a calendar month if the beginning date of aid was a date other than the first day of a calendar month.

*128(h) At the time that aid is approved, a person eligible to receive aid under this section shall be informed in writing that the eligibility period for the program is time-limited; that, unless there is a change in circumstances, aid payments shall terminate at the end of the specified period; and that if he/she disagrees with the proposed action, he/she has a right to request a state hearing.

*129(i) No aid shall be paid to a recipient under this section who has requested a state hearing but whose time-limited eligibility period has expired.

(j) The principal earner who is apparently eligible for Unemployment Insurance Benefits (UIB) shall apply for, meet all conditions of eligibility for, and accept any UIB for which EDD determines he/she may be eligible. (See Section 44-103.115(a) for those principal earners who are apparently eligible for UIB. See Section 44-103.242(a) for the definition of "meet all conditions of eligibility for UIB.") When the principal earner does not meet this requirement, State-only AFDC-U deprivation does not exist (see Section 44-206.26).

Authority: Welfare and Institutions Code Sections 10553, 10554, 10604(b), and 11209.

Reference: Welfare and Institutions Code Sections 11201(b)(3), 11250, and 11315.

Repeal Section 41-440.26.

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued) 41-440

•2 Requirements to be Met in Order to Establish Deprivation Due to Unemployment (Continued)

*26 All AFDC-U parents shall apply for, meet all conditions of eligibility for, and accept unemployment insurance benefits to which they are entitled except that the following individuals will not qualify and shall not be referred to EBB to apply for UIB:

*261 One who is receiving disability insurance benefits.

*262 One who has not worked in the past 19 months.

*263 One who is ill or injured as specified by Section 42-630*3 and is unable to work due to such illness or injury.

All other U-parents are required to fulfill the provisions of this section, even if they are otherwise exempt from work registration under the provisions of Section 41-440.24.

Authority: welfare and Institutions Code Sections 10553, 10554, and 10604(b), and 11209.

Reference: Welfare and Institutions Code Section 11201, 45 CFR 233.100(a)(5)(ii), and 42 USC 607(b)(2)(C)(ii).

Amend Section 41-440.45 to read:

41-440 UNEMPLOYMENT OF A PARENT OR PARENTS (Continued) 41-440

•4 Conditions to be Met for Federal Participation in Payments to AFDC-U Families (Continued)

- 45 The AFDC-U parent principal earner, who is apparently eligible for UIB (see Section 44-103.115(a)), shall not have refused to apply for and accept any unemployment insurance benefits (UIB) to which he or she is entitled, when referred to EDD by the county welfare department. When the principal earner does not meet this requirement, Federal AFDC-U deprivation does not exist for the family (see Section 44-206.25). See Section 44-103 for the requirements for pursuing UIB as potential income for principal earners who are not exempt from WIN registration.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: 45 CFR 233.100(a)(5)(ii) and 42 USC 607(b)(2)(C)(ii).

Renumber and Amend Section 44-103.115 to read:

44-103 EXPLORATION OF INCOME POTENTIALS AND INCOME
VERIFICATIONS

44-103

.1 County Responsibility

.11 The county is responsible for: (Continued)

.115 Referring all applicants and recipients with a work history within the past 19 months, who are apparently eligible for UIB, for a determination of their eligibility for unemployment insurance benefits (UIB). Exceptions to such referral are persons who: Before the referral of an applicant or recipient to EDD, the county shall make the preliminary assessment that the individual is apparently eligible for UIB.

(a) Apparently eligible applicants of UIB are all applicants and recipients of AFDC, except those described below, who shall not be referred to EDD to apply for UIB.

(1) Individuals who have not worked in employment covered by the Unemployment Insurance Compensation Law in the past 19 months; or

~~(a)~~ (2) Individuals who are receiving UIB, have a UIB claim which is being processed, have exhausted their UIB; or

~~(b)~~ are fully employed, that is, working 8 hours a day, forty hours per week; or

~~(c)~~ are ill or injured as specified in Section 42-630.3; or

~~(d)~~ are receiving Disability Insurance Benefits.

(3) Individuals who are receiving Disability Insurance Benefits; or

(4) Individuals who are ill or injured as specified in Section 42-630.3; or

- (5) Individuals who have previously been denied or discontinued from UIB and have had no subsequent employment which would change the previous EUD determination; or
- (6) Individuals who are fully employed (working eight hours a day, forty hours per week).

Authority: Welfare and Institutions Code Sections 10553, 10554, 10604(b), and 11209.

Reference: Welfare and Institutions Code Section 11270 and 45 CFR 233.20(a)(3)(ix), and 42 USC 602(a)(7)(A).

Adopt Sections 44-103.116, 44-103.117, and 44-103.118 to read:

44-103 EXPLORATION OF INCOME POTENTIALS AND INCOME 44-103
 VERIFICATION

.1 County Responsibility

.11 The county is responsible for: (Continued)

.116 Determining good cause when an apparently eligible applicant or recipient, who is required to register for WIN in accordance with Chapter 42-600, does not meet all conditions of eligibility for UIB. Circumstances that may constitute good cause shall be evaluated using the criteria contained in Handbook Subsection 44-103.116(b) below.

Adopt Handbook Section 44-103.116(a) and (b) to read:

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(a) The United States Department of Labor and United States Department of Health and Human Services WIN Handbook, Chapter 10, Section 10, Subsection d, provides the good cause criteria which govern the work Incentive Program.

(b) Failure or Refusal to Participate with Good Cause.

In some instances a registrant may have good cause for failing or refusing to participate. Examples of good cause may include, but are not limited to:

- 1) Illness or incapacity;
- 2) Court-required appearance or incarceration;
- 3) Emergency family crisis or sudden change of immediate family circumstances;

H
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K

- 4) Breakdown in transportation arrangements with no readily accessible alternate means of transportation;
- 5) Inclement weather which prevented the registrant or other person similarly situated from traveling to, or participating in the prescribed activity;
- 6) Breakdown in the child care arrangement or availability of child care not suited for special needs of child for whom it is intended; handicapped or retarded child;
- 7) Lack of other necessary social services, even though not specifically included in the local or state WIN plan;
- 8) The assignment or job referral does not meet the appropriate work and training criteria;
- 9) Refusal to accept major medical services even if such refusal precludes participation in the program.

.117 Discontinuing or denying aid to an individual, as specified below, if: 1) the applicant or recipient does not apply for or accept any UIB to which EDD determines he/she may be eligible; or 2) the applicant or recipient, when required to register for WIN and who is not otherwise WIN exempt, did not, without good cause, meet all conditions of eligibility for UIB (see Section 44-103.242 for the definition of "meet all conditions of eligibility for UIB").

- (a) If the individual is a caretaker relative, his/her needs shall not be considered in determining the amount of aid for the assistance unit, or
- (b) If the individual is one of several eligible persons in the assistance unit, aid shall be denied or discontinued for

that person. Aid shall be continued for the remainder of the family; or

(c) If the individual is the only eligible child in the assistance unit, aid shall be denied or discontinued to the entire family, or

(d) If the individual is a State-only AFDC-U principal earner (see Sections 41-400.12(j) and 44-206.26); or

(e) If the individual is a federally eligible AFDC-U principal earner (see Sections 41-440.45 and 44-206.25).

.118 Continuing aid for the entire month to an individual who is fully eligible for AFDC as of the first day of the month, even though the individual is subsequently disqualified for UIB or refuses to accept the UIB for which he/she is eligible. In this circumstance, aid is discontinued effective the end of the month. If the individual reestablished eligibility for UIB in the same month that he/she is disqualified for UIB, aid shall continue uninterrupted.

Authority: Welfare and Institutions Code Sections 10553, 10554, 10604(b), and 11209.

Reference: Welfare and Institutions Code Sections 11270, 11310, 11454, 11455, and 11458; 45 CFR 224.20(b), 45 CFR 233.10(b)(3), 45 CFR 233.20(a)(3)(ix), 45 CFR 234.60 and 42 USC 602(a)(7)(A).

Renumber and Amend Sections 44-103.23 and .24 to read:

44-103 EXPLORATION OF INCOME POTENTIALS AND INCOME 44-103
VERIFICATION (Continued)

.2 Applicant and Recipient Responsibility (Continued)

.23 Only the applicant or recipient who ~~refuses to~~ does not apply for or accept unconditionally available income shall be rendered ineligible. ~~by such refusal. If the applicant or recipient who refuses such action is the caretaker, a protective payee shall be appointed for the FBW (See Sections 44-103.117 and 44-206.2).~~

.231 The applicant or recipient who would be disadvantaged by receipt of Special Age 72 OASDI Benefits, because he/she would lose his the public assistance cash grant and certain medical benefits, is not ineligible to a public assistance cash grant if he/she refuses to apply for and accept such benefits.

.232 If the applicant or recipient is an AFBE-H parent who refuses to apply for or accept unemployment insurance benefits, the whole family is ineligible.

.24 Applicants and Recipients who are apparently eligible for UIB:

.24.241 All AFBE applicants and recipients are required to apply for any UIB for which they are apparently eligible shall apply for and accept any UIB for which EDD determines they are he/she is eligible. Any AFDC applicant or recipient who refuses to does not apply for or accept UIB for which he/she is eligible is ineligible shall not be eligible for AFDC (also see Section 44-103.115). For requirements specific to AFBE-H parents, see Section 44-440.26 and

.242 When required to register for WIN, shall meet all conditions of eligibility for UIB, unless the county determines that the individual had good cause (see Section 44-103.116).

(a) "Meet conditions of eligibility for UIB" is defined as those current UIB requirements an applicant or recipient of UIB must meet in the month of application or aid payment

in order to establish and/or maintain UIB eligibility. These requirements include but are not limited to the criteria in Unemployment Insurance Code Section 1253. (See Handbook Section 44-103.242(b) below. Also see Section 44-103.118 regarding temporary periods of UIB ineligibility.)

Adopt Section 44-103.242(b) (Handbook) to read:

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- (b) Unemployment Insurance Code Section 1253 reads: 1253. An unemployed individual is eligible to receive unemployment compensation benefits with respect to any week only if the director finds that:
- (1) A claim for benefits with respect to that week has been made in accordance with authorized regulations.
 - (2) He has registered for work, and thereafter continued to report, at a public employment office or such other place as the director may approve. Either or both of the requirements of this subdivision may be waived or altered by authorized regulation as to partially employed individuals attached to regular jobs.
 - (3) He was able to work and available for work for that week.
 - (4) He has been unemployed for a waiting period of one week as defined in Section 1254.
 - (5) He conducted a search for suitable work in accordance with specific and reasonable instructions of a public employment office.

Authority: Welfare and Institutions Code Sections 10553, 10554, 10604(b), and 11209.

Reference: Welfare and Institutions Code Sections 11201 and 11270; 45 CFR 233.100(a)(5)(ii) and 45 CFR 233.20(a)(3)(ix); 42 USC 602(a)(7)(A), and 42 USC 607(b)(2)(C)(ii); and Unemployment Insurance Code Section 1253.

Amend Title Section 44-206 and Section 44-206.1 to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE FBH
ASSISTANCE UNIT (AU)

44-206

- .1 The following persons must be excluded from the FBH assistance unit (even if it would be appropriate to include them under Sections 44-205.23 or .24):

Authority: Welfare and Institutions Code Sections 10553, 10554, 10604(b), and 11209.

Reference: Welfare and Institutions Code Sections 10553 and 10554.

Adopt Section 44-206.1(m) and (n) to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE FBJ
ASSISTANCE UNIT (AU)

44-206

.1 The following persons must be excluded from the assistance unit (even if it would be appropriate to include them under Sections 44-205.23 or .24): (Continued)

(m) Any applicant or recipient, required to register for WIN, who does not without good cause meet all conditions of eligibility for UIB. (See Section 44-103.117).

(n) Any applicant or recipient who does not apply for or accept any UIB to which EDD determines he/she is eligible (See Section 44-103.117).

Authority: Welfare and Institutions Code Sections 10553, 10554, 10604(b), and 11209.

Reference: Welfare and Institutions Code Section 11270, 45 CFR 233.20(a)(3)(ix), and 42 USC 602(a)(7)(A).

Repeal Section 44-206.21 to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE FBH (Continued) 44-206
ASSISTANCE UNIT (AU)

.2 The entire family is ineligible for aid payments when:

.21 The AFBE-U parent refuses to apply for or accept aid.
(See Section 44-103.232).

Authority: Welfare and Institutions Code Sections 10553,
10554, 10604(b), and 11209.

Reference: Welfare and Institutions Code Section 11201, 45
CFR 233.100(a)(5)(ii), and 42 USC
607(b)(2)(C)(ii).

Adopt Section 44-206.25 and .26 to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE FBW (Continued) 44-206
ASSISTANCE UNIT (AU)

.2 The Entire Family is Ineligible for Aid Payments when:
(Continued)

.25 The federally eligible AFDC-U principal earner does not apply for or accept UIB (see Section 41-440.45) when referred by the county welfare department.

.26 The State-only AFDC-U principal earner does not apply for, meet all conditions of eligibility for, and accept UIB (see Section 41-440.12(1)).

Authority: Welfare and Institutions Code Sections 10553, 10554, 10604(b), and 11209.

Reference: Welfare and Institutions Code Section 11201, 45 CFR 233.100(a)(5)(ii), and 42 USC 607(b)(2)(C)(ii).

FACE SHEET
(OAL-4)

34-1220-1
(See Instructions on Reverse)

ORD #1284-67

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED FOR FILING

DEC 20 10 08 AM '84

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED

APPROVED FOR FILING

JAN 10 1985

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

Rosalie P. Clark

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

JAN 10 1985

At 4:02 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Cathleen Patrick*
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION
Angie Teixeira, Regulations Analyst

TELEPHONE 323-0884

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: SECTIONS AMENDED
63-102

SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☒ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

N/A

b. DATE OF ADOPTION OF REGULATION(S)

N/A

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

N/A

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☐ Effective on _____ as required by statutes: (list) _____
- c. ☒ Effective on January 21, 1985 (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☐ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Renumber Section 63-102 to read:

63-102 DEFINITIONS

63-102

a. (1) "Allotment" means the total value of coupons a household is authorized to receive during each calendar month of certification.

(2) Reserved

b. (3) "Application form" means:

~~(1)~~ (A) The application form designed or approved by FNS, which is completed by a household member or authorized representative.

~~(2)~~ (B) For households in which all members apply for or receive Public Assistance, it shall mean the forms used to apply for AFDC, including any necessary Food Stamp Program attachments approved by FNS.

c. (4) "Authorization to Participate card (ATP)" means a document which is issued by the county to a certified household to show the allotment the household is authorized to receive on presentation of such document.

bbb. (1) "Beginning Months" in a retrospective budgeting system means the first month the household is certified for food stamps and the month thereafter. For households applying for food stamps and PA benefits at the same time, a third beginning month shall be assigned if necessary for the household to transition from prospective to retrospective budgeting during the same month for both food stamps and PA. The first beginning month cannot be any month which immediately follows a month in which a household is certified and subject to retrospective budgeting in any project area.

eee. (2) "Budget Month" in a retrospective budgeting system means the month from which income and other circumstances (except household composition) of the household are used to calculate the household's allotment for the corresponding issuance month.

d. c. (1) "Calendar month" means a period running from the first of the month through the end of the month.

kk. (2) "Communal dining facility" means a public or nonprofit private establishment approved by FNS which prepares and serves meals for elderly persons, or for supplemental

security income (SSI) recipients and their spouses; a public or private nonprofit establishment (eating or otherwise) that feeds elderly persons or SSI recipients and their spouses, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It also includes private establishments which contract with a local agency to offer meals at concessional prices to elderly persons or SSI recipients and their spouses.

+++ (3) Compliance with "CWD Time Limits" means taking action within the time frames specified unless the last day for taking action falls on a Sunday or other holiday, as specified in Government Code Sections 6700 and 6701, in which case the last day for taking action is on the next normal working day. If the last day falls on a Saturday the CWD shall take action on or before that date.

ee (4) "County agency (CWD)" means the agency of county government which has been delegated the responsibility for the administration of the federally aided public assistance programs within the county.

++ (5) "Coupon" means a type of certificate provided pursuant to the provisions of Division 63, Food Stamp Regulations, for the purchase of eligible foods.

fe (6) "Coupon issuer" means the CWD or any person, partnership, corporation, organization, or other entity with which a CWD has an SDSS approved contract for, or to which it has assigned responsibility for the issuance of coupons to households.

ae+d. (1) "Days" unless stated otherwise refers to calendar days.

g* (2) "Department" means the State Department of Social Services.

h* (3) "Director" means the director of the State Department of Social Services.

mm* (4) "Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the Department of Alcohol and Drug Programs as providing treatment which can lead to the rehabilitation of drug addicts or alcoholics.

ie. (1) "Elderly or disabled member" means a member of a household who: (1) is 60 years of age or older; (2)

receives disability or blindness payments under Title II of the Social Security Act; (3) is a veteran with a service-connected disability rated or paid as total under Title 38 of the United States Code or is considered in need of regular aid and attendance or permanently housebound under such title of the Code; (4) is a surviving spouse of a veteran and considered in need of aid and attendance or permanently housebound or a surviving child of a veteran and considered to be permanently incapable of self-support under Title 38 of the United States Code; or (5) is a surviving spouse or child of a veteran and entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death under Title 38 of the United States Code and has a disability considered permanently under Section 221(i) of the Social Security Act. "Entitled" as used in this definition refers to those veterans' surviving spouses and children who are receiving the compensation or benefits stated or have been approved for such payments, but are not receiving them.

ee* (2) "Eligible food" means:

- 1* (A) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption.
- 2* (B) Seeds and plants to grow foods for personal consumption of eligible households.
- 3* (C) Meals prepared and delivered by an FNS authorized meal delivery service to households eligible to use coupons for the purchase of delivered meals; or meals served by a communal dining facility for the elderly to households eligible to use coupons for communal dining.
- 4* (D) Meals prepared and served to households eligible to use coupons to purchase those meals by a drug or alcoholic treatment and rehabilitation center which is authorized by FNS to accept coupons in exchange for meals.
- 5* (E) Meals prepared and served to eligible blind or disabled residents receiving benefits under Title II or Title XVI of the Social Security Act by a group living arrangement which is authorized to accept coupons in exchange for meals.

- 6* (F) Meals prepared and served by a shelter for battered women and children to its eligible residents.
- ddd* (3) "Extended Filing Date" in a monthly reporting system is by close of business on the first working day of the issuance month and is the final date by which the household must submit a complete Monthly Eligibility Report (CA 7), including all required verification without penalty of termination of eligibility or disallowance of deductions.
- j*f* (1) "FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.
- bb* (2) "Federal fiscal year" means a period of 12 calendar months beginning with October 1 and ending with September 30 of the following year.
- k* (3) "Food Stamp Act" means the Food Stamp Act of 1977 (Pub. L. 95-113), including any subsequent amendments thereto.
- dd* (4) DFA and CA forms means the State's most currently printed Division of Financial Administration and Children's Assistance Forms.
- t*g* (1) "General Assistance (GA)" means cash assistance which is financed by county funds.
- ff* (2) "Group living arrangement" means a public or private nonprofit residential setting serving no more than sixteen residents that is licensed by the Department of Social Services as either a small family home, a large family home, or a group home. To be eligible for food stamp benefits, a resident of such a group living arrangement must be blind or disabled and receiving benefits under Title II (Retirement, Survivors, Disability Insurance benefits) or Title XVI (SSI) of the Social Security Act. However, if per Section 63-402.2, Title XVI recipients are ineligible for food stamps, this ineligibility shall apply to Title XVI (SSI) recipients who are residing in group living arrangements.
- yy*h* (1) "Household Disaster" means a natural event such as flood, tornado, or a devastating event such as a fire.
- ppp* (2) "House-to-house trade routes" means any retail food business operated from a truck, bus, pushcart, or other vehicle which can move easily from place to place.

m-i.(1) "Identification (ID) card" means a card which identifies the bearer as eligible to receive and use food coupons.

n (2) "Immigration and Naturalization Service (INS)" means the Immigration and Naturalization Service, U.S. Department of Justice.

jjj(3) "Initial Application and Certification" means:

+1+ (A) For the purpose of prorating benefits (see Section 63-503.13):

(a) The first application for benefits a household has ever filed, or

(b) An application for certification filed after any break in certification.

+2+ (B) For the purpose of determining verification requirements (see Section 63-300.5):

(a) The first application for benefits a household has ever filed, or

(b) An application for certification filed after at least a one month break since the household was last certified, or

(c) An application received from any household which was immediately previously certified in another project area regardless of whether or not there has been a one month break since the household was last certified.

+3+ (C) For the purpose of determining whether or not it is a beginning month(s) for a household which shall be subject to retrospective budgeting (see Section 63-503.21):

(a) The first application for benefits a household has ever filed, or

(b) An application for certification filed after at least a one month break since the household was last certified and subject to retrospective budgeting.

o (4) "Institution of higher education" means any educational institution which normally requires a high school diploma or equivalency certificate for enrollment.

including but not limited to, colleges, universities, and vocational or technical schools at the post-high school level. Some institutions, which normally require a high school diploma or equivalent, make exceptions for certain students who the institution feels can benefit from the program offered even though the student has not graduated from high school. In such cases, these institutions are still to be considered "institutions of higher education".

eee-(5) "Issuance Month" in a monthly reporting and retrospective budgeting system means the month for which a food stamp allotment is issued. The allotment is based on income and circumstances in the corresponding budget month. In prospective budgeting, the budget month and issuance month are the same. In retrospective budgeting, the issuance month is the second month after the budget month.

vv- (6) "Issued" means an item is disbursed. Therefore, coupons or ATPs are considered issued when deposited in the mail or handed over the counter.

j- Reserved

k- Reserved

tt-1.(1) "Liquid Resources" means those resources which are in the form of cash or are readily converted into cash. Such resources shall include but may not be limited to cash on hand, money in checking or savings accounts, savings certificates, trust deeds, notes receivable, stocks or bonds, and nonrecurring lump-sum payments unless specifically excluded in Section 63-501.3.

nn-m-(1) "Meal delivery service" means a political subdivision, a private nonprofit organization, or a private establishment which contracts with a local agency for the preparation and delivery of meals at concessional prices to elderly persons and their spouses; and to the physically or mentally handicapped and their spouses, such that they are unable to adequately prepare all of their meals.

q- (2) "Medicaid" means medical assistance under Title XIX of the Social Security Act, as amended.

cc- (3) Medical licensed practitioner or other qualified health professional authorized by state law shall include but not be limited to the following: Acupuncturists, Chiropractors, Educational Psychologists, Midwives,

Nurse Practitioners, Nurses (Registered, Vocational, Home Administrators and Registry), Physical Therapists, Podiatrists, Psychiatrists, Psychiatric Technicians and Clinical Psychologists.

fff*(4) "Migrant Farmworker" shall mean an individual who does not live at his/her home, but rather travels from place to place outside the project area in which the individual resides, to seek employment in an agriculturally related activity. A migrant household is a household that travels for this purpose. A household residing at its primary residence shall not be defined as a migrant household for food stamp purposes.

mmm*(5) "Mixed Household" means a food stamp household in which less than all members receive public assistance in addition to food stamp benefits. For purposes of these regulations, mixed households shall be considered nonassistance households and shall be subject to the same procedures as nonassistance households except as otherwise specified.

nnn*n*(1) "Nonassistance Household" means a household which receives food stamp benefits and in which none or less than all of its members also receive public assistance.

hh*(2) "Nonliquid Resources" means those resources which are not in the form of cash and are not readily converted into cash. Such resources shall include but may not be limited to personal property, licensed and unlicensed vehicles, buildings, land, recreational properties, and any other property, unless specifically excluded in Section 63-501.3.

ooo*(3) "Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food.

r-o*(1) "Overissuance" means the amount by which coupons issued to a household exceeds the amount it was eligible to receive.

qq*p*(1) "Parental Control"

1* (A) A minor child shall not be considered under the parental control of the adult with whom he/she resides if any one of the following conditions exists:

- (a) The minor entered into a valid marriage, whether or not such marriage has terminated by dissolution.
- (b) The minor is on active duty with any of the armed forces of the United States of America. (Note: A person who was in the armed forces but was discharged before reaching the age of 18 could still be considered under parental control.)
- (c) The minor has been emancipated by a court order.

2. (B) If none of the above conditions exist then whether or not a minor should be considered under the parental control of the adult with whom he/she resides shall be determined using the following criteria. The eligibility worker shall assess the relative importance of the criteria below to each individual case in determining whether or not parental control exists:

- (a) The minor is economically self-supporting and managing his/her own affairs.
- (b) The closer a minor is to 18 years the more significant age becomes in the determination of parental control.
- (c) The minor is absent from the adult with whom he/she is residing for significant periods of time and comes and goes without the adult's approval.

ww (2) A "Photo Identification Card System" is one which meets all the requirements of Section 63-504.9. The photo identification card system may utilize a single identification card which meets the requirements of Sections 63-504.5 and 63-504.9 or two identification cards which together meet the requirements of these sections.

jj (3) "Prescreening" means gathering information to perform a preliminary review of eligibility for participation in the food stamp program. Prescreening does not include gathering information to refer an applicant to the appropriate program or office.

ss (4) "Program" means the Food Stamp Program conducted under the Food Stamp Act and regulations.

t* (5) "Project area" means the county designated as the administrative unit for program operations. Upon prior FNS approval, a city, Indian reservation, welfare district, or any other entity with clearly defined geographic boundaries, or any combination of such entities, may be designated as a project area, or the state as a whole may be designated as a single project area.

ggg* (6) "Prospective Budgeting" means the computation of a household's food stamp allotment for an issuance month based on an estimate of income and circumstances which will exist in that month.

rrr* (7) "Prospective Eligibility" means the determination of a household's eligibility for an issuance month based on an estimate of a household's income, circumstances, and composition which will exist in that month.

u* (8) "Public Assistance (PA)" means any of the following programs authorized by the Social Security Act of 1935, as amended: Old-age assistance, Aid to Families with Dependent Children (AFDC), including AFDC for children of unemployed fathers, Aid to the Blind, Aid to the Permanently and Totally Disabled and Aid to Aged, Blind, or Disabled. A PA household is a household in which all members receive PA.

g. Reserved

kkk*r. (1) Compliance with "Recipient Due Dates" means items shall be received by close of business on the date specified unless that date falls on a weekend or holiday, in which case the due date is by close of business on the next normal working day.

v* (2) "Regulations" means the provisions of this manual. Regulatory citations refer to provisions of this manual unless otherwise specified.

hhh* (3) "Report Month" in a monthly reporting and retrospective budgeting system means the month during which the monthly eligibility report (CA 7) from the budget month is due and the month during which the household's allotment for the issuance month is calculated. The report month is between the budget month and the issuance month.

gg* (4) "Retail food store" means:

- 1* (A) An establishment or recognized department of an establishment, or a house-to-house trade route, whose eligible food sales volume is more than 50 percent for food items for home preparation and consumption. See Section 63-102(ppp.) for house-to-house trade route definition.
- 2* (B) Public or private communal dining facilities and meal delivery services, drug addict or alcoholic treatment and rehabilitation programs, public or private nonprofit shelters for battered women and children, or public or private nonprofit group living arrangements which accept food stamps in exchange for meals.
- 3* (C) Drug addict or alcoholic treatment and rehabilitation programs or public or private nonprofit group living arrangements which redeem coupons directly through wholesalers.
- 4* (D) Any private nonprofit cooperative food purchasing venture, including those whose members pay for food prior to receipt of the food.
- 5* (E) A farmer's market.
- iii* (5) "Retrospective Budgeting" means the computation of a household's food stamp allotment for an issuance month based on actual income and circumstances which existed in the budget month.
- rr*s* (1) "Shelter for Battered Women and Children" means a public or private nonprofit residential facility that serves battered women and/or women with children. A shelter: 1) may have FNS authorization as a retail food store to redeem coupons through wholesalers; 2) may accept coupons from residents in payment for meals prepared by the shelter; 3) may redeem coupons at retailers as the authorized representative; or 4) residents may use coupons to purchase food and prepare meals. If the facility also serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and/or women with children.
- aaa* (2) "Sponsor" means a person who executed an affidavit(s) of support or similar agreement, on behalf of an alien as a condition of the alien's entry or admission into the United States as a permanent resident.
- zz* (3) "Sponsored alien" means those aliens lawfully admitted for permanent residence into the United States as

immigrants and supported by a sponsor in order to overcome Section 212(a)(15) of the Immigration and Nationality Act.

w* (4) "Spouse" refers to either of two individuals who would be defined as married to each other under applicable state law or who are cohabitating and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or tradespeople.

pp* (5) "Staple food" means those food items intended for home preparation and consumption which include meat, poultry, fish, breadstuffs, cereals, vegetables, fruits, fruit and vegetable juices, and dairy products. Accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices are not staple foods for the purposes of qualifying a firm to participate in the Food Stamp Program as a retail food store.

x* (6) "State agency" (SDSS)" means the agency of the State Government which has the responsibility for the administration of the federally aided public assistance programs within the state.

y* (7) "Supplemental Security Income (SSI)" means monthly cash payments made under the authority of Title XVI of the Social Security Act, as amended, to the aged, blind, and disabled.

z*t.(1) "Thrifty food plan" means the diet required to feed a family of four persons consisting of a man and a woman 20 through 54, a child six through eight, and a child nine through 11 years of age, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall make household-size adjustments in the thrifty food plan taking into account economies of scale.

qqq*(2) "Trafficking" means the buying or selling of coupons or ATP cards for cash.

u. Reserved

v. Reserved

tt-w.(1) "Wholesale food concern" means an establishment which sells eligible food to retail stores or to meal services for resale to households.

x. Reserved

y. Reserved

z. Reserved

ss. "Migrant Households" are households which contain members who travel to various locations in search of agricultural employment.

FACE SHEET
(OAL-4)

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #1184-60

RECEIVED FOR FILING
JAN 10 4 18 PM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED

PPR 10/10/85

JAN 14 1985

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services
(AGENCY)

BY: Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JAN 14 1985
At 4:43 o'clock P.M.
MARCH FONG EU, Secretary of State
By Mayorie Hershberger
Deputy Secretary of State
LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Roy Howard, Regulations Analyst

TELEPHONE

445-1422

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: _____

SECTIONS ADOPTED

Manual of Policies and Procedures (MPP), 70-800 through 70-809

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☒ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPCC Approval Stamp) ☒ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

N/A

b. DATE OF ADOPTION OF REGULATION(S)

January 10, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

N/A

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective on filing as required by statutes: (list) Government Code Section 11346.1(d)
- c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☐ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

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Adopt new chapter heading to read:

INTERCOUNTY ADOPTIONS

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Adopt new Section 70-800 to read:

70-800 DEFINITIONS

70-800

- (a) "Adoption Abroad" means the adoption of a foreign-born child by a United States citizen completed in foreign courts under the laws of the foreign country.
- (b) "Agency" means a licensed California private adoption agency.
- (c) "California Preadoption Requirements-Adoption Abroad" means assessment of applicant as required by MPP Section 70-804.
- (d) "California Preadoption Requirements-Adoption of a Foreign-Born Child in California" means:
 - (1) Assessment of applicant as required by MPP Section 70-804.
 - (2) Assessment of the child as required by MPP Section 70-805.
 - (3) Determination that the child is legally free for adoption.
 - (4) Determination that the child's needs can be met by placement with the prospective adoptive parent.
- (e) "Child" means a foreign-born individual under 16 years of age.
- (f) "Department" means the State Department of Social Services.
- (g) "Foreign Agency" means the foreign government or organization authorized under the laws of the foreign country to provide adoption services.
- (h) "Foreign Guardianship" means care, custody, control and financial responsibility for the foreign-born child given to a United States citizen by the government of the child's native country.

(i) "INS" means the Immigration and Naturalization Services agency within the United States Department of Justice charged with administering the immigration and naturalization laws of the United States.

(j) "Intercountry Adoption" means intercountry adoption as defined at Welfare and Institutions Code Section 16140.

(1) Welfare and Institutions Code Section 16140 reads as follows:

"For the purposes of this Chapter "intercountry adoption" means the adoption of a foreign-born child for whom federal law makes a special immigration visa available. Intercountry adoption includes completion of the adoption in the child's native country or completion of the adoption in California."

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Welfare and Institutions Code Sections 16140, 16142, 16142.1, 16143, and 16145; Civil Code Sections 25, 226.1, .2, .3, .4, .6, and .8; and 8 CFR 204.2(d)(3).

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Adopt new Section 70-801 to read:

70-801 GENERAL AND ADMINISTRATIVE REQUIREMENTS

70-801

- .1 The agency shall make copies of the following available to all staff:
 - .11 Federal statute and regulations pertaining to intercountry adoptions
 - .12 Department of Social Services' Manual of Policies and Procedures (MPP), Division 70
 - .13 California Administrative Code, Title 22, Division 2, Chapter 3, Adoptions and Child Placing Agencies
 - .14 Current written information explaining the laws, policies and procedures of any foreign agency
 - .15 Copies of all written agreements between the agency and any foreign agency.
- .2 The agency shall have a written agreement with each foreign agency from which the agency places children.
 - .21 The written agreement between the agency and the foreign agency shall:
 - .211 Verify that the foreign agency is authorized to place children for intercountry adoption under the laws of the foreign agency's country.
 - .212 Specify the responsibility of the foreign agency for the care of the child including medical care and financial support
 - .213 Specify the authority and responsibility of the foreign agency in relation to placement, disruptions, finalization of the intercountry adoption or return of the child to his/her native country
 - a. The agency shall notify the foreign agency in writing whenever the adoption cannot be finalized.
 - .214 Specify the supervision and reporting requirements of the foreign agency

.215 Specify the policies and procedures for the selection of children through the foreign agency

a. The policies of a foreign agency may preclude placement of a foreign-born child with certain individuals or family constellations.

.216 Specify responsibility for travel arrangements for the child's transportation from the child's native country to the final California destination.

.3 The agency shall submit reports as required by the department including but not limited to the following:

.31 The number of applications pending

.32 The number of completed Assessments of Applicants

.33 The number of pending Assessments of Applicants

.34 The number of adoptions by relatives

.35 The number of homes awaiting placement of a foreign-born child

.36 The number of completed intercountry adoptions

.37 The number of foreign-born children placed by county of origin.

.4 The agency shall establish a fee schedule for intercountry adoption services as required by Welfare and Institutions Code Section 16143.2.

.41 Welfare and Institutions Code Section 16143.2 reads as follows:

"The costs incurred by licensed adoption agencies pursuant to programs established by the act which added this section to the Welfare and Institutions Code shall be funded by fees charged by those agencies for services required by this chapter. The agency's fee schedule must be approved by the department initially, and whenever it is altered."

.5 The agency shall maintain a permanent record for each foreign-born child and/or family for whom the agency provides adoption services.

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.51 In addition to copies of all correspondence case records shall include:

.511 Copies of all documents received from the foreign agency

.512 Written Assessment of the Child as required by MPP Section 70-805

a. Copy of psychological and medical history form as required by MPP Section 70-805.6

.513 Copy of written Background Information on Birth Parents as required by MPP Section 70-806 including medical report on the mother of the child as required by MPP Section 70-806.122

.514 Copy of written Assessment of the Applicant as required by MPP Section 70-804 including:

(a) Documentation required by MPP Section 70-804.5

(b) Copy of notification of agency's decision regarding the assessment as required by MPP Section 70-804.7.

.515 Information regarding application, placement and supervision including:

(a) Copy of completed application as required by MPP Section 70-803.1

(b) Copy of placement agreement as required by MPP Section 70-807.16

(c) Copy of updated psychological and medical history form and updated assessment of the child as required by MPP Section 70-808.43 and .44

(d) Documentation that the agency provided a copy of the updated psychological and medical history form to the prospective adoptive parent as required by MPP Section 70-808.3

(e) Documentation to support any reduction in the six-month supervisory period permitted by MPP Section 70-808.3

- (f) Documentation of all interviews during the supervisory period as required by MPP Section 70-808.5 and .6 including:

 - (1) Documentation of any area listed in MPP Section 70-808.711 through .716 observed by the agency representative that requires modification and a description of the modification required by MPP Section 70-808.42.
- (g) Copy of written evaluation of the adoptive placement as required by MPP Section 70-808.7
- (h) Copy of all written notices as required by Title 22, California Administrative Code Sections 80684(c) and (d).
- .516 Copies of all court reports submitted by the agency as required by MPP Section 70-809
- .517 Copies of all requests for disclosure of information from the adoption case record including:

 - (a) Requests for medically necessary information
 - (b) Waivers of confidentiality to allow the agency or department to arrange for contact among the adult adoptee, the natural parent and the adoptive parent
 - (c) Requests for disclosure of the name and address of the birth parent
 - (d) Requests for a copy of the psychological and medical history form
- .518 Copy of certification to INS that California Preadoption Requirements have been met.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141; and Health and Safety Code Section 1530.

Reference: Welfare and Institutions Code Sections 10852,
16143.1, and .2; and Title 22, California
Administrative Code Sections 89179 and 89182.

Adopt new Section 70-802 to read:

70-802 CUSTODY, USE AND PRESERVATION OF ADOPTION
CASE RECORDS

70-802

- .1 All adoption case records maintained or made in the process of providing adoption services are confidential and except as provided for in this section, the agency or the Department shall not disclose any information contained in an adoption case record for any purpose not directly connected with the adoption.
- .2 The department shall be permitted to disclose information to an adopted person which is limited to general background information pertaining to the adopted person's birth parents.
 - .21 Such information shall not include or reveal the identity of the birth parents.
- .3 The agency or the department shall disclose medically necessary information pertaining to the adopted person's birth parents to the child or grandchild of the adopted person.
 - .31 Such medically necessary information shall not include or reveal the identity of the birth parents.
- .4 The agency or the department shall be permitted to arrange for contact among an adult adoptee, his or her birth parent and any living adoptive parent if each of these persons has filed a written waiver of his/her rights with respect to the confidentiality of adoption records with the agency or with the department.
 - .41 Neither the department nor the agency shall solicit directly or indirectly such a waiver.
 - .42 The waiver shall be in the format prescribed by the department.
- .5 The department or agency shall provide a copy of the medical report with the names and addresses of any persons contained in the report removed unless the person requesting the report has previously received the information pursuant to Civil Code Section 227b to:
 - .51 The person who has been adopted and who has attained the age of 18 or who presents a certified copy of his/her marriage certificate.

.52 The adoptive parent of a person under the age of 18.

Authority: Welfare and Institutions Code Sections 10553, 10554, 10850(d), and 16141.

Reference: Civil Code Sections 224s, 230.6, and 1798.24r and s.

Adopt new Section 70-803 to read:

70-803 APPLICATION FOR THE PLACEMENT OF A CHILD
FOR ADOPTION

70-803

- .1 The agency shall require a written application prior to making an assessment of any person wishing to adopt a child.

Authority: Welfare and Institutions Code Sections 10553,
 10554, and 16141.

Reference: Welfare and Institutions Code Section 16141.

Adopt new Section 70-804 to read:

70-804 ASSESSMENT OF THE APPLICANT

70-803

- .1 The agency shall make a written assessment of the applicant to determine the applicant's suitability as a prospective adoptive parent.
 - .11 The written assessment shall be the basis for the agency's decision as to whether the applicant will be approved for the adoptive placement of a child.
- .2 The agency shall have the authority to make a determination that the applicant shall not be approved for the adoptive placement of a child at any point in the assessment process.
- .3 The agency shall make a determination that the applicant shall be approved for the adoptive placement of a child only after completing the entire assessment process.
- .4 The agency shall conduct interviews as necessary to make the determination required in MPP Section 70-804.1.
 - .41 The agency shall conduct at least one interview in the home of the applicant.
 - .42 The agency shall conduct separate interviews with each applicant if more than one applicant.
 - .43 The agency shall conduct a joint interview with the applicants if there is more than one applicant.
 - .44 The agency shall conduct interviews with all other adults and have contact with all children who live in the applicant's home.
- .5 The agency shall discuss the following information with the applicant:
 - .51 Approximate time it may take to complete each stage of the intercountry adoption process
 - .52 Statutory and regulatory requirements for adoption including confidentiality of adoption records
 - .521 INS requirements
 - .522 Foreign agency requirements.
 - .53 Children available for adoption

- .54 Agency fees, if any
 - .541 Foreign agency fees, if any.
- .55 Availability of a grievance review process in accordance with Title 22, California Administrative Code Section 30684.
- .56 The applicant's responsibility to pay for transportation of the foreign-born child from the child's native country to the child's final destination in California.
- .57 The applicant's responsibility for the foreign-born child adopted under the laws of the child's native country.
- .58 If the applicant is going to adopt the foreign-born child under the laws of the child's native country:
 - .581 The desirability of adopting the foreign-born child in California.
 - .582 The agency that completed the assessment shall provide all services to the applicant to assist him/her in completing the adoption in California to include but not limited to:
 - (a) Completing the report to the court required by MPP Section 70-809.
- .59 The applicant's responsibility for the foreign-born child when he/she has received guardianship of the child under the laws of the child's native country.
- .6 The agency shall obtain the following documentation from the applicant to facilitate the assessment:
 - .61 Authorization for the release of medical and employment information on the applicant
 - .62 Report of medical examination on the applicant
 - .621 The medical report shall be signed by a licensed physician.
 - .622 The medical examination required by this section shall have been conducted no earlier than six months prior to the application.
 - .63 School reports for all children residing in the home of the applicant.

.64 At least three letters of reference regarding the suitability of the applicant as an adoptive parent.

.7 The assessment of the applicant shall include:

.71 Obtaining the following identifying information:

.711 Name, date of birth and sex

.712 Current address and telephone number

.713 Blood relationship to child, if any

.714 Race and ethnic background information

.715 Religion

.716 Current employment information

.717 Verification of marital status, if relevant

(a) Verification of termination of all prior marriages.

.72 Evaluation of:

.721 General characteristics including:

(a) The manner in which the applicant has dealt with difficult or stressful life situations

(b) Relationships within the applicant's family

(c) Ability to assume responsibility for the care, guidance and protection of a child

(1) Acceptance of a child from a different race or ethnic background.

(d) Emotional flexibility and stability

(e) Self-esteem

(f) Coping ability

(g) The manner in which normal hazards and risks are accepted

(h) Motivation for adoption

- (i) Ability to have a parent-child relationship and to enjoy a child
- (j) Flexibility regarding the applicant's expectations of a child
- (k) Feelings and attitudes regarding:
 - (1) Inability of the applicant to conceive children when this is a factor in the application
 - (2) Children born to unmarried parents
 - (3) Children who have been abused, neglected or abandoned
 - (4) Sharing the facts surrounding the adoption with the adopted child including how the applicant plans to teach the child about, identify with and have information about his/her native country
 - (5) Children who have physical, emotional and/or mental handicaps.

.722 Social background:

- (a) Participation in community activities
- (b) Peer relationships.

.723 Educational background

.724 Financial stability

.725 Work adjustment

.726 Adequacy of housing

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- (a) Evaluation of adequacy of housing may include evaluation of the following conditions:
 - (1) sanitation
 - (2) safety
 - (3) sleeping accommodations

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(4) play area.

.73 Compliance with any foreign agency requirements.

.8 The agency shall provide the applicant with written notification of its decision.

.81 Notification of the agency's decision that the applicant is approved for the adoptive placement of a child shall include identification of age, race, gender and characteristics of children considered for placement.

.82 Notification of the agency's decision not to approve the applicant for the adoptive placement of a child shall include an identification of the factors listed in MPP Section 70-804 which led to the agency's decision.

.821 The agency shall inform the applicant of the agency's grievance review procedure and the right of the applicant to file a grievance with the agency within 30 days of receipt of the agency's decision.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Welfare and Institutions Code Sections 16142; and 8 CFR 204.2(d)

Adopt new Section 70-805 to read:

70-805 ASSESSMENT OF THE CHILD

70-805

- .1 The agency shall make a written assessment of the child.
- .2 The agency shall obtain documentation on the child to facilitate the assessment, including:
 - .21 Medical reports
 - .22 Psychological evaluations
 - .23 Scholastic information
 - .24 Developmental history
 - .25 Family life history
 - .26 Certified copy of birth certificate
 - .27 Race and ethnic background
 - .28 Religion.
- .3 The agency shall obtain the documentation on the foreign-born child from the foreign agency responsible for the child.
- .4 The agency shall document any unavailability of the documentation required by MFP Section 70-805.2 and the reasons for its unavailability.
- .5 The assessment shall include:
 - .51 Current and anticipated:
 - .511 Psychological functioning
 - .512 Scholastic functioning
 - .513 Social functioning
 - .514 Health status.
 - .52 Identification of any special needs of the child.
- .6 The agency shall complete a psychological and medical history form for the child.

Authority: Welfare and Institutions Code Sections 10553,
10554, and 16141.

Reference: Civil Code Sections 224s and 226.6.

Adopt new Section 70-806 to read:

70-806 BACKGROUND INFORMATION ON THE BIRTH PARENTS

70-806

- .1 The agency shall obtain the following written information on the child's birth parents:
 - .11 Identifying information including:
 - .111 Name
 - .112 Current address
 - .113 Date of birth
 - .114 Sex
 - .115 Race and ethnic background
 - .116 Any information required by the foreign agency.
 - .12 Medical background information including:
 - .121 Written medical report signed by a licensed physician
 - .122 Written medical report on the mother of a child who is less than one year of age signed by the physician who delivered the child or, if not available, from the hospital where the child was born. The report shall include:
 - (a) Results of the mother's blood test for syphilis
 - (b) Information regarding all medication taken by the mother during pregnancy
 - (c) Mother's health during pregnancy
 - (d) Any complications of pregnancy
 - (e) Any complications of delivery.
- .13 Social history including:
 - .131 Marriages
 - .132 Other children

.133 Reason for placement

.134 Education and employment.

- .2 The agency shall obtain the information on the birth parents of the foreign-born child from the foreign agency responsible for the child.
- .3 The agency shall document any unavailability of the information required by MPP Section 70-806.1 and the reasons for its unavailability.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Civil Code Sections 224s and 226.6.

Adopt new Section 70-807 to read:

70-807 PLACEMENT

70-807

- .1 Prior to placement of the child where the adoption will be completed in California, the agency shall:
 - .11 Determine that the child is legally free for adoption
 - .12 Determine that the child's needs can be met by placement with the prospective adoptive parent
 - .121 The child's needs shall be determined by the assessment required by MPP Section 70-805
 - .122 The prospective adoptive parent's ability to meet the needs of the particular child shall be determined by a review of the Assessment of the Applicant required by MPP Section 70-804
 - .123 The agency shall make all nonidentifying information obtained in the Assessments of the Child and Background Information on the Birth Parents available to the prospective adoptive parent and shall discuss with the prospective adoptive parent the agency's evaluation of the child's current and anticipated functioning as required by MPP Section 70-805.51
 - (a) The agency shall submit the information to the prospective adoptive parent no later than 30 days prior to the placement of the child
 - .124 The agency shall make the psychological and medical history form required by MPP Section 70-805.6 available to the prospective adoptive parent.
 - .13 Determine that all INS requirements for a foreign-born child have been met
 - .14 Certify to INS compliance with California Preadoption Requirements
 - .15 Unless the prospective adoptive parent has received guardianship of the foreign-born child from the child's native country the agency shall discuss the following with the prospective adoptive parent:

(a) That the agency shall retain legal custody of the child, supervise the adoptive placement, and routinely meet with the prospective adoptive parent and child until a final decree of adoption is granted

(1) If the agency enters into an agreement with the prospective adoptive parent to share or transfer financial responsibility for the child, as permitted by Welfare and Institutions Code Section 16143.1 that the placement agreement shall include the nature of responsibility assumed by the prospective adoptive parent, duration of that responsibility and effective date

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(A) Welfare and Institutions Code Section 16143.1 reads as follows:

"Nothing in this article shall be construed to prohibit the licensed adoption agency from entering into an agreement with the prospective adoptive parents to share or transfer financial responsibility for the child."

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(b) That the child shall not be concealed within the county prior to granting of the final decree of adoption

(c) That the child shall not be removed from the county of residence of the prospective adoptive parent prior to filing an adoption petition without the prior written consent of the agency

(d) That after the adoption petition is filed the child shall not be removed from the county of residence of the prospective adoptive parent for a period exceeding 30 days without the approval of the court until a final decree of adoption is granted

(e) That the prospective adoptive parent shall immediately place the child under the care of a licensed physician and shall follow the physician's recommendation for routine health care for the child including immunizations

(f) That the prospective adoptive parent shall inform the agency of any serious injury to or illness of

the child and shall obtain prior written consent for all nonemergency surgical and other nonroutine medical treatment for the child.

(g) That the prospective adoptive parent shall inform the agency regarding any changes in the composition of the adoptive family or place of residence of the family.

(h) That the adoptive placement may be terminated and the child removed from the prospective adoptive parent's home at the agency's discretion prior to the filing of the petition to adopt.

(i) That the agency agrees to give seven days written notice to the prospective adoptive parent of its intent to terminate the adoptive placement and remove the child unless the agency has determined that the child is in danger of cruelty, neglect, depravity or abuse.

(j) That after the adoptive petition has been filed the agency must obtain court approval to remove the child.

(k) That the prospective parent shall be permitted to terminate the adoptive placement and return the child to the agency at any time prior to the granting of the final decree of adoption.

(l) That the agency shall determine that all ICPC requirements for an interstate placement have been met as required by Title 22, California Administrative Code Sections 30850 through 30859.

(m) That the agency has a grievance review procedure and the right of the prospective adoptive parent to file a grievance with the agency if the parent is dissatisfied with any action of the agency at any time before a petition for adoption is filed.

(1) The grievance review process shall be in accordance with Title 22, California Administrative Code, Chapter 3, Article 9.

(n) That Welfare and Institutions Code Section 16144 requires that as a condition of placement the prospective adoptive parent shall file a petition to adopt the child under Section 226 of the Civil Code within thirty (30) days of placement.

.16 Unless the prospective adoptive parent has received guardianship of the foreign-born child from the child's native country, enter into an adoptive placement agreement with the prospective adoptive parent which agreement shall include:

.161 General and identifying information as follows:

- (a) Name and address of prospective adoptive parent
- (b) Name, address and telephone number of agency
- (c) First name and date of birth of child
- (d) Anticipated date of placement
- (e) Amount of agency fees, including foreign agency fees, if any

.162 Statements which summarize the information required by MPP Section 70-807.15.

.163 A space for acknowledgement of receipt by the prospective adoptive parent of the information required by MPP Sections 70-807.123 and .124.

.164 A space for the signature of the prospective adoptive parent and date of signing the adoptive placement agreement.

.165 A space for the signature of the agency's representative and date of signing the adoptive placement agreement.

- (a) The signature and date of signing by a representative of each agency shall be obtained if the placement is a cooperative placement between two agencies.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Civil Code Sections 224n and s, 276.6, and 264 through 274; 8 CFR 204.2(d)(3) and 204.2(d)(i); and Welfare and Institutions Code Section 16143(a).

Adopt new Section 70-808 to read:

70-808 SUPERVISION OF ADOPTIVE PLACEMENT

70-808

- .1 The agency shall supervise the adoptive placement of the child with the prospective adoptive parent unless the child was adopted abroad.
- .2 The agency shall commence supervision of the adoptive placement when the child is placed with the prospective adoptive parent and continue until a final decree of adoption is granted or the child is removed from the home of the prospective adoptive parent.
- .3 The duration of the supervisory period shall not be less than six months unless:
 - .31 The adoptive parent has successfully completed the adoption of another child in California, including an Assessment of the Applicant and supervision by an agency, within the past two years, or
 - .32 The adoptive parent is in the military service of the United States or is employed by the American Red Cross and completion of the six-month supervisory period would delay completion of an adoption which the agency has determined should be completed.
- .4 During the supervisory period the agency shall provide the following services as needed to the prospective adoptive parent and to the child to be adopted so that the child may be successfully integrated into the family:
 - .41 Liaison between the family and:
 - .411 Schools
 - .412 Mental health agencies
 - .413 Physical health agencies
 - .414 Rehabilitation service agencies
 - .415 Other community resources.
 - .42 Discussion with the prospective adoptive parent regarding any area listed in MPP Sections 70-808.711 through .716 observed by the agency representative that requires modification and a description of the modification required

.43 Update the psychological and medical history form to reflect any additional information revealed during the supervisory period

.431 The agency shall make a copy of the updated psychological and medical history form available to the prospective adoptive parent.

.44 Update the Assessment of the Child to reflect any additional information discovered during the supervisory period.

.5 During the supervisory period the agency shall conduct at least one interview in the home of the prospective adoptive parent with the prospective adoptive parent and the child to be adopted.

.6 The agency shall conduct at least three additional interviews with the prospective adoptive parent unless the duration of the supervisory period has been reduced to less than six months as provided for in MPP Section 70-808.3.

.7 The agency shall make a written evaluation of the adoptive placement.

.71 The evaluation shall include:

.711 The child's physical growth and development, including identification of any abnormalities.

.712 The child's general health and physical appearance, including identification of any problem areas.

.713 The child's initial and continuing adjustment in the home including:

(a) The child's attitude about adoption

(b) The child's attitude about this adoptive placement

(c) The child's relationship with other family members

(d) The child's school adjustment

(e) The child's social interaction

.714 The relationship of the prospective adoptive parent and all other family members with the child

.715 The use made of extended family relationships by
the prospective adoptive parent

.716 The method, consistency and success of discipline
used by the prospective adoptive parent.

Authority: Welfare and Institutions Code Sections 10553,
10554, and 16141.

Reference: Civil Code Section 226.6.

Adopt new Section 70-809 to read:

70-809 INTERCOUNTRY ADOPTION COURT REPORT

70-809

- .1 The agency shall make a report to the court in all cases where the Department has not waived the court report and the child has been placed for adoption by the agency and the prospective adoptive parent has filed a petition for adoption. The court report shall be submitted:
 - .11 Within 180 days after the petition for adoption has been filed, or
 - .12 Within the time period extended by the court.
- .2 The report shall include:
 - .21 A full report of the Background Information on the Birth Parents as required by MPP Section 70-806
 - .22 A full report of the information obtained in the Assessment of the Child as required by MPP Section 70-805
 - .23 A full report of the information obtained in the Assessment of the Applicant as required by MPP Section 70-804
 - .24 Verification that the child is legally free for adoption
 - .25 The agency's recommendation that the petition be granted or denied.
- .3 The agency shall not include the names and addresses of the birth parents in the court report.
- .4 In those cases in which the agency has a question concerning the suitability of the petitioners or the care provided the child, the agency shall immediately file the court report.
 - .41 A question regarding the suitability of the petitioner or the care provided the child shall be documented in the report to the court.
 - .42 The agency shall recommend either:
 - .421 That the court give direction to the agency regarding the situation giving rise to the agency's question, or

•422 Recommend that the petition be denied.

•5 Civil Code Section 226c reads as follows:

"Removal of child from petitioner's home: commitment; duties of agency. At the hearing, if the court sustains the recommendation that the child be removed from the home of petitioners because the agency has recommended denial or the petitioners desire to withdraw the petition or the court dismisses the petition and does not return him to his parents, the court shall commit the child to the care of the State Department of Social Services, the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, whichever agency made the recommendation, for that agency to arrange adoptive placement or to make a suitable plan. In those counties not covered by a licensed county adoption agency, the county welfare department shall act as the agent of the State Department of Social Services and shall provide care for the child in accordance with rules and regulations established by the department."

•6 The agency shall make a copy of its report available to the attorney of record for the adoptive petitioner or to the adoptive petitioner if he/she is not represented by an attorney.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 16141.

Reference: Civil Code Sections 226.6 and 226.7.

FACE SHEET
(OAL-4)

85-0115-1E
(See Instructions on Reverse)
(ORD #118458)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED FOR FILING
JAN 15 3 01 PM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
JAN 18 1985

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services
(AGENCY)

BY: Linda S. Melkahn
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JAN 18 1985
At 10:40 clock A.M.
MARCH FONG EU, Secretary of State
By Mary Jane Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Jerry Demorest and Angie Teixeira, Regulations Analysts

TELEPHONE 445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: MPP SECTIONS AMENDED 40-128.12; 40-181.242; 42-205.5; 42-213.2k and q; 42-691.52;
43-119.1 - .6; 43-201.3; 43-203.12 - .15 and .2; 44-111.47; (Continued)
MPP SECTIONS ADOPTED 25-370; 40-118; 40-128.12 and .13; 40-173.7; 40-181.241(i) and .26;
42-213.12; 43-119.3; 43-201.218 and .219; 43-203.11; 44-133.7, .8 and .102; and 44-310.
MPP SECTIONS REPEALED 42-691.521; 44-101.2; 44-115.72; 44-133.314, .62(a) and (b) and .8;
44-203.31 and .32; 44-205.212; 44-206.1(b) and 44-309.12.

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☒ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

January 18, 1985

b. DATE OF ADOPTION OF REGULATION(S)

January 15, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective on January 18, 1985 as required by statutes: (list) Statutes 1984, Chapter 1447 (Sec 14)
c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Attachment to OAL-4
(ORD #1184-58)

MPP Sections Amended: 44-113.3 and .7; 44-133.62, .63 and .10; 44-203.3;
44-205 Title and .12; 42-206.1 and .22; 44-207.21(b) and 44-309.1

(1) Adopt MPP Section 25-370 to read:

25-370 CHILD/SPOUSAL SUPPORT DISREGARD

25-370

Warrants issued to pay the support disregard to eligible AFDC FG/U, EA-UP, and State Only AFDC-U assistance units shall be issued in a separate and identifiable warrant labeled "CSSD." The support disregard payment shall not be combined with any other payment issued to the assistance unit, such as the AFDC grant or the child support pass-on and excess payments.

Authority: Welfare and Institutions Code Sections 10554 and 10604.

Reference: Welfare and Institutions Code Section 10553 and 45 CFR 232.20.

(2) Adopt MPP Section 40-118 to read:

40-118 WHO MUST BE INCLUDED AS APPLICANTS
(FILING UNIT)

40-118

- .1 The following individuals, if living in the same household as the child for whom aid is requested, shall be included on the appropriate Statement of Facts (CA 2 or CA 8) after an application or restoration request:
 - .11 Natural or adoptive brothers and sisters (including half brothers and half sisters) of the child for whom aid is requested who are themselves potentially eligible children (see Section 44-203.11).
 - .12 Natural or adoptive parent(s) of a child mentioned in .11 above.
- .2 The county welfare department shall determine whether the appropriate individuals are included on the applicable Statement of Facts (CA 2 or CA 8). The application or restoration request shall be denied if the applicant refuses to include on the CA 2 or CA 8 any individual listed in .1 above.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11450 (Stats. 1984, Ch. 1447, Sec. 9); 42 USC Section 602(a)(38), (PL No. 98-369, Sec. 2640); 45 CFR Section 206.10(a)(1)(vii), (49 FR 35599, September 10, 1984.)

(3) Renumber existing MPP Section 40-128.12 to .14 and Adopt new Section 40-128.12 to read:

40-128 APPLICANT'S STATEMENT OF FACTS

40-128

•1 Filing and Appropriate Statement of Facts (Continued)

•12 Minor Parent Residing with Unaided Senior Parent(s) or Legal Guardian(s)

•121 The minor parent (see Section 44-133.71) who applies for aid while residing in the same household as his/her senior parent(s) or legal guardian(s) must report the income of his/her parent(s) or legal guardian(s).

In addition to the form CA 2, the minor parent shall submit a complete Supplement to the Statement of Facts (CA 23) to the county welfare department. The minor parent is responsible for obtaining all information necessary to complete the CA 23 and for obtaining the necessary verification from the senior parent(s) or legal guardian(s). The information and the submitted verification must provide the county welfare department with the facts necessary to make a correct eligibility and grant determination.

•122 Failure to provide a complete CA 23 (as defined in •121 above) shall result in the denial of aid to the minor parent and child in accordance with Section 40-105.1.

•124 A change in an aid recipient's status from that of a medically needy person certified for medical assistance to that of a grant recipient does not require a new application. A Statement of Facts, APSB 201 or CA 2, as appropriate is required before a cash grant is authorized for such person only in circumstances described in Section 40-183.5.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 11008.14 (Stats. 1984, Ch. 1447, Sec. 2) 11054; 42 USC

Section 602(a)39 (PL No. 98-369, Sec. 2640); 45
CFR Section 233.20(a)(3)(xviii), (49 FR 35600,
September 10, 1984).

(4) Adopt MPP Section 40-128.13 to read:

40-128 APPLICANT'S STATEMENT OF FACTS

40-128

•1 Filing and Appropriate Statement of Facts (Continued)

•13 Aliens Sponsored by Agencies or Organizations

•131 An alien sponsored by an agency or organization (See Section 43-119.3) who applies for aid shall provide the County Welfare Department (CWD) with a statement of the ability of the sponsor to meet his/her needs. As a part of his/her application for aid, the sponsored alien shall submit a complete Form CA 24 (Agency or Organization - Sponsored Aliens Applying For or Receiving Aid to Families With Dependent Children) to the CWD. The alien is responsible for ensuring that the CA 24 is complete.

•132 Failure to provide a complete CA 24 (as defined in •131 above) shall result in the denial of aid to the alien.

Authority: Welfare and Institutions Code Section 10554 and 10604.

Reference: Welfare and Institutions Code Section 11008.13, 45 CFR 233.51.

(5) Adopt MPP Section 40-173.7 to read:

40-173 COUNTY DEPARTMENT RESPONSIBILITY FOR NOTIFYING 40-173
APPLICANTS AND RECIPIENTS

Prior to county action, the applicant or recipient shall be (a) notified of any county action which relates to his application, affects aid payment to him or his certification for medical assistance, or affects aid payment to him or his family, and (b) informed of his responsibility for reporting facts material to the determination of his eligibility. Such notification, advice, etc., shall be in simple understandable language. Required notifications are: (Continued)

.7 Notification of Child/Spousal Disregard Payment

.71 An informational notice must be sent no later than concurrently with each child/spousal support disregard payment issued under Section 43-203.11. The notice language developed by the State Department of Social Services for this purpose shall be used.

Authority: Welfare and Institutions Code Sections 10554 and 11475.

Reference: Welfare and Institutions Code Sections 10553 and 11475.

(6) Adopt MPP Section 40-181.241(i) to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF
ELIGIBILITY (Continued)

40-181

•2 Periodic Determination of Eligibility (Continued)

•24 Criteria for Evaluating Information Reported on the CA
7. (Continued)

•241 For AFDC purposes, a CA 7 is complete when all the
following requirements are met: (Continued)

- (i) The Supplemental Monthly Income Report (CA 73) shall be submitted with the CA 7 when the recipient is a minor parent who lives with his/her senior parent or legal guardian. The completeness of the CA 73 shall be determined using the criteria for evaluating the completeness of the CA 7.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 11008.14 (Stats. 1984, Ch. 1447, Sec. 2), 11265.1; 42 USC Section 602(a)(6), (PL No. 98-369, Sec. 2640); 45 CFR Section 233.20(a)(3)(xviii), (49 FR 35600, September 10, 1984).

(7) Amend MPP Section 40-181.242 and adopt new Section 40-181.26 to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF 40-181
ELIGIBILITY (Continued)

•2 Periodic Determination of Eligibility (Continued)

•24 Criteria for Evaluating Information Reported on the CA
7. (Continued)

•242 Failure to provide the information or evidence specified in .241 above shall result in the discontinuance of the assistance unit unless otherwise specified in .25 and .26 below. (See Section 40-181.22.) (Continued)

•25 (Continued)

•26 Failure to report or verify the receipt of a child/spousal support disregard payment issued under Section 43-203.11 will not result in an incomplete CA 7 nor in termination of aid.

Authority: Welfare and Institutions Code Sections 10554, 10604, and 10553.

Reference: Welfare and Institutions Code Sections 10554 and 11265.1.

(8) Amend MPP Section 42-205.5 to read:

42-205 DETERMINING OWNERSHIP OF REAL AND PERSONAL
PROPERTY (Continued)

42-205

.5 Sponsored Aliens

For purposes of this section, "sponsored alien" applies only to those aliens who are sponsored by an individual and not those aliens who are sponsored by any public or private agency or organization (see Section 43-119.2).

When an alien is a sponsored alien as defined in Section 43-119, the resources of his/her the alien's sponsor and the resources of the sponsor's spouse who lives with the sponsor as provided in Section 43-119.322, shall be deemed to be the sponsored alien's resources. These resources are determined as follows:

Authority: Welfare and Institutions Code Sections 10554 and 10604.

Reference: Welfare and Institutions Code Section 11008.13, 45 CFR 233.20 and 45 CFR 233.51.

(9) Adopt Section 42-213.12 to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY 42-213
WHICH MAY BE RETAINED (Continued)

.1 Real Property to be Excluded (Continued)

.12 Real property, not otherwise excluded, that the assistance unit is making a good faith effort to sell may be exempt from consideration in the resource limit described in Section 42-207 for a period of no more than six consecutive months.

.121 As a condition of receiving aid during the exempt period and prior to the county granting aid, the applicant/recipient shall:

(a) Grant the county a lien against the property which shall be payable to the county when the property is sold (see Section 42-213.122), and

(b) Agree in writing to begin immediately to make a good faith effort to sell the property. See Section 42-213.123 for what constitutes a good faith effort. If the applicant/recipient elects not to sell the property at any time prior to the expiration of the six months, the property shall no longer be exempt from consideration in the resource limit.

.122 The county shall have the lien notarized (notarization by the county designated notary is acceptable) and then promptly record the lien in the county recorder's office where the property is located. The lien document shall:

(a) Clearly show that the purpose of the lien is to repay the county the amount of repayable aid received during the exempt period. See Section 42-213.124. The lien, in itself, shall not require the sale of the property.

(b) Contain a legal description of the property that the lien is against. A legal description of the property can be obtained

from the tax assessor's rolls of the county where the property is located.

(c) State the name(s) of the owner(s) of the property as it appears on the county assessor's rolls. The lien shall be binding on the applicant/recipient and his or her heirs, executors, administrators, and assignees.

.123 In order to make a good faith effort to sell the property, as a condition of receiving aid during the exempt period, the applicant/recipient shall, at a minimum, either:

(a) List the property for sale with a licensed real estate broker at the property's approximate fair market value (see Section 42-213.123(c)) and be willing to negotiate the terms of the sale with potential buyers, or

(b) Make an individual effort to sell the property which shall include all the following:

(1) Advertising once a week in at least one publication of general circulation that the property is for sale.

(2) Place a sign on the property indicating that the property is for sale. Whenever possible, the sign shall be visible from the street.

(3) Offer the property for sale at its approximate fair market value. See Section 42-213.123(c).

(4) Be willing to negotiate the terms of the sale with potential buyers and respond to all reasonable inquiries about the property.

(c) For purposes of this section, the fair market value of the property shall be the applicant/recipient's choice of:

(1) The assessed value of the property, or

(2) A valuation of the market value of the property obtained by the applicant/recipient from a licensed real estate broker.

(3) In exceptional circumstances, such as when the property is located in a remote area and it is impossible or impractical to obtain a valuation, and the applicant/recipient believes that the assessed value is too high or too low, the county and the applicant/recipient may agree on the market value based upon other available information.

.124 Any aid paid during the six-month period or until the property is sold, whichever comes first, shall be considered repayable aid at the time of the sale of the property and shall be collectible from the net proceeds of the sale of the property. The amount of repayable aid shall be determined as follows:

(a) If the net proceeds from the sale of the property plus the value of other countable real and personal property at the beginning of the exempt period are less than the resource limit specified in Section 42-207, there shall be no repayable aid.

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(1) Example: At the beginning of the exempt period, an assistance unit had \$300 in a savings account in addition to a parcel of land that was not counted in the resource limit under this section. The property was sold for \$8,000. Loans and liens, except for the lien granted to the county under this section, that were secured by the property equaled \$6,000. Costs directly related to the sale were \$1,400. The \$6,000 plus the \$1,400 were subtracted from the gross amount of the sale (\$8,000) to arrive at the net proceeds from the sale of \$600. The net proceeds (\$600) plus the value of other countable resources at the beginning of the exempt period (\$300 in savings account) are less than the \$1,000

HANDBOOK

limit allowed under Section 42-207.
Therefore, there is no repayable aid.

(b) If the amount of aid paid during the exempt period exceeds the net proceeds of the sale of the property, then the amount of repayable aid is the amount of the net proceeds.

(1) Example: The county did not count the value of a lot with a house that was owned but not occupied by an assistance unit in the resource limit as allowed under this section. At the end of six months, the property sold for \$29,000 and the family had received \$3,960 in aid payments. The net proceeds of the sale were determined to be \$3,000. The amount of repayable aid is \$3,000 because the net proceeds were less than the amount of aid paid during the exempt period.

(c) The net proceeds of the sale are determined by subtracting from the gross amount of the sale the costs determined by the county to be directly related to the sale of the property, such as:

(1) Loans and liens of the seller, other than the lien granted to the county under this section, that are secured by the property,

(2) Title insurance fees paid by the seller,

(3) Brokers fees paid by the seller,

(4) Prepaid interest or loan processing fees (points) paid by the seller,

(5) Appraisal fees paid by the seller,

(6) Fees paid by the seller to advertise the property, i.e., newspaper ads and for sale signs,

•125 The county shall inform the applicant/recipient at the time this exemption is granted that it is

time-limited; and, at the end of six months the assistance unit will be ineligible if the property has not been sold and the combined value of real and personal property continues to exceed the \$1,000 limit specified in Section 42-207.

- 126 The county shall retain sufficient documentation to determine the amount of repayable aid that will be collectible when the property is sold.

Authority: Welfare and Institutions Code Section 10553.

Reference: Welfare and Institutions Code Section 11257.5 [Statutes 1984, Chapter 1447]; 42 USC Section 602(a)(7)(B) [Public Law 98-369, Section 2626]; 45 CFR 233.20(a)(5) [49 Federal Register 35599 (1984)]

(10) Amend MPP Section 42-213.2k to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY 42-213
WHICH MAY BE RETAINED (Continued)

.2 Personal Property to be Excluded (Continued)

[k. The first \$50 of current child/spousal support disregarded as income under Section 44-111.47 shall be excluded both during the month it is received by the county and when it is received by the assistance unit, if different.]

Authority: Welfare and Institutions Code Sections 10554 and 10604.

Reference: Welfare and Institutions Code Section 11008.14; 45 CFR 233.20 and 45 CFR 302.51(b)

* The revision enclosed in brackets was adopted via separate Department of Social Services (DSS) regulations entitled "ORD 0884-37 - Public Law 98-369 [DEFRA] AFDC Revisions" effective October 1, 1984. See Item 1 of the DSS Notice of November 28, 1984 Public Hearing (October 12, 1984 edition of the California Administrative Notice Register).

(11) Amend MPP Section 42-213.2q to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING PROPERTY 42-213
WHICH MAY BE RETAINED (Continued)

.2 Personal Property to be Excluded (Continued)

- q. The exclusive property of an ineligible ~~unaided~~ child, except for the exclusive property of an otherwise eligible child who is required to apply for aid under Section 40-118 but who is not presently being aided.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 11008.14, 11450 (Stats. 1984, Ch. 1447, Sec. 2 and 9); 42 USC Sec. 602(a)(38) (PL No. 98-369, Sec. 2640); 45 CFR Sec. 206.10(a)(1)(viii), (49 FR 35589 and 35599, September 10, 1984).

(12) Amend MPP Section 42-691.52 to read:

42-691 SANCTIONS (Continued)

42-691

•5 Continuation of Aid in the Form of Protective or Vendor Payments (Continued)

•52 The SAU worker ~~will~~ shall arrange for a protective payee or develop a plan for vendor payments ~~unless the individual has been deregistered from WIN (see exception at Section 44-310).~~ Should the individual be deregistered prior to completion of arrangements for a protective payee or a plan for vendor payments, this function shall be funded under Title IV-A of the Social Security Act.

•521 If the individual does not cooperate in naming a protective payee or developing a plan for vendor payments, the payment shall be made in the form of a protective payment to an agency protective payee.

•522 If an agency payee is used, the agency shall take care to assure that no actual or apparent conflict of interest exists.

Agency protective payees may not include the IMU worker.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11308, (Stats. 1984, Ch. 1447, Sec. 8); 42 USC Sections 602(a)(19)(F)(i), (PL No. 98-369 Sec. 2634); 45 CFR Section 234.60(a)(12), (49 FR 35603, September 10, 1984).

(13) Amend MPP Section 43-119.1 through .6 and adopt 43-119.3 to read:

43-119 SPONSORED ALIENS

43-119

[13a: Amend .1 and .5 to read:]

.1 Sponsored Alien - Definition

- 11 For purposes of this section, a A sponsored alien is an alien whose entry into the United States was sponsored by a person, or any public or private agency or organization who, as part of this sponsorship, executed an affidavit of support or similar agreement on behalf of the alien (who is not the child or spouse of the sponsor) as a condition of the alien's entry into the United States.
- 5.12 The provisions of this section 43-119.2 and .3 do not apply if the alien is:
 - 51 A dependent child and the sponsor or sponsor's spouse is the parent of such child. (In this situation, the sponsor-parent has a responsibility to support under Section 43-103.1+)
 - 52 Sponsored by an organization or institution
 - 53.121 Admitted to the United States as a result of the application of the provisions of Section 203(a)(7) (in effect prior to April 1, 1980) of the Immigration and Naturalization Act;
 - 54.122 Admitted to the United States as a result of the application of the provisions of Section 207(c) (in effect after March 31, 1980) of the Immigration and Naturalization Act;
 - 55.123 Paroled into the United States as a refugee under Section 212(d)(5) of the Immigration and Naturalization Act;
 - 56.124 Granted political asylum by the Attorney General under Section 208 of the Immigration and Naturalization Act;
 - 57.125 A Cuban or Haitian entrant, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).

[13b: Amend .2 and Renumber .3, .4, and .6 to read:]

2 This section applies to sponsored aliens Individual Sponsors

.21 The provisions of 43-119.2 apply only to aliens:

.211 Who are sponsored by individuals; and

.212 Who are not exempt under Section 43-119.12 and

*21.213 Who apply for AFDC for the first time after September 30, 1981; and

*22.214 For a period of three years from the date established by Immigration and Naturalization Service as the date of entry for permanent residences.

*3.22 The income and resources of the sponsor who is not receiving AFDC, SSI or other public cash assistance payments (such as General Assistance) and the income and resources of the sponsor's spouse who lives with him/her and who is not receiving such public assistance payments shall be deemed to be the income and resources of the sponsored alien. See Sections 44-133.10 for the determination of the amount of this income and Section 42-205.5 for the determination of the amount of resources.

*4.23 As a condition of eligibility, the sponsored alien has the following responsibilities:

*41.231 To provide upon county request, information and documentation concerning his/her sponsor which may be necessary to make the determination under Section 44-133.10 and Section 42-205.5; and information and documentation which the alien and his/her sponsor provided in support of the alien's immigration application.

*42.232 To obtain the cooperation from his/her sponsor which is necessary to make the determination under Section 44-133.10 and Section 42-205.5.

*43.233 To comply with reporting requirements specified in Section 40-181.25.

*6.24 In the event of the death of an alien's sponsor(s), verification of death(s) shall be required only when the

information reported is questionable. In the absence of evidence to the contrary, the sponsored alien's statement under penalty of perjury is to be accepted and the sponsored alien provisions shall no longer apply.

[13c: Adopt new .3 provisions to read:]

.3 Agency or Organization Sponsors

- .31 The provisions of 43-119.3 apply only to aliens who are sponsored by an agency or organization and who are not exempt under Section 43-119.12.
- .32 For a period of three years from the date established by the Immigration and Naturalization Service (INS) as the date of entry for permanent residence, the alien shall be ineligible for AFDC unless the following occurs:
 - .321 The county determines in accordance with standards and procedures specified in Sections 43-119.33 through 43-119.35 that:
 - (a) The sponsor no longer exists, or
 - (b) The sponsor is no longer able to meet the alien's needs in accordance with standards specified in 43-119.35.
- .33 A sponsoring agency or organization shall be considered to exist unless the applicant states that the agency or organization no longer exists. This statement shall be verified when the county determines it is necessary based on the provisions of Section 40-157. If documentation cannot be obtained the aliens sworn statement to this effect shall be accepted. See Section 40-115.22.
- .34 The following standards shall be used to determine whether a sponsoring agency or organization is able to meet the needs of the sponsored alien:
 - .341 If an assistance unit consists only of aliens, all of whom are sponsored by the same agency, the agency must be able to contribute the MBSAC amount for the number of persons in the assistance unit (see Section 44-207.112) whether or not the agency is actually providing this amount.

Example: A family of four applies for AFDC. All four are sponsored by the same agency. The

sponsoring agency must be able to provide the MBSAC for four persons.

- .342 If an assistance unit has more than one sponsor or if less than all members of the assistance unit are sponsored by the agency, each sponsoring agency must be able to contribute a prorated portion of the total MBSAC amount which reflects the number of persons in the assistance unit who are sponsored by that agency or organization. This figure is calculated by determining the applicable MBSAC for the entire assistance unit and prorating this amount based on the number of aliens sponsored by each agency.

Example: An assistance unit of five applies for AFDC. Three of them were sponsored by one agency; the other two were sponsored by a different agency or an individual sponsor. The first agency must be able to provide at least 3/5 of the MBSAC amount, and if it is able, these three members of the unit would be ineligible for AFDC. If the second agency is able to provide at least 2/5 of the MBSAC amount, the other two members would also be ineligible. If on the other hand, these two members were sponsored by an individual sponsor, that sponsor's income would be deemed to an assistance unit of two and applied against MBSAC/MAP for two (assuming the other three members of the unit are ineligible).

- .35 An existing sponsoring agency or organization shall be considered able to meet the alien's needs unless the alien provides to the county a statement (CA 24/see Section 40-128.13) signed by the director (or any other person authorized to act on behalf of the agency or organization) that the agency or organization is no longer able to meet the alien's needs. This statement shall affect the alien's eligibility as follows:

- .351 If the sponsoring agency states it is unable to meet any of the alien's needs, the alien if otherwise eligible, shall be aided.

- .352 If the sponsoring agency states it is able to meet only part of the alien's needs (less than the applicable MBSAC amount), the alien, if otherwise eligible, shall be aided and the actual amount provided by the sponsor shall be treated as income to the alien. Any in-kind income received by the

alien shall be treated in accordance with Section 44-115.8.

.353 If the sponsoring agency states it is able to provide at least the amount specified in 43-119.341 or .342, the alien shall be ineligible.

.354 If the sponsoring agency fails or refuses to provide the aliens with a signed statement of its inability to meet all or a part of the alien's needs, the county welfare department shall attempt to obtain a statement from the agency in accordance with Section 40-157.213. If both the alien and the CWD are unable to obtain a signed statement from the sponsoring agency, the alien shall not be eligible for AFDC assistance.

Authority: Welfare and Institutions Code Sections 10554 and 10604.

Reference: Welfare and Institutions Code Section 11008.13; 45 CFR 233.51.

(14) Adopt MPP Sections 43-201.218 and .219 to read:

43-201 CHILD AND SPOUSAL SUPPORT AND PATERNITY (Continued) 43-201

•2 Ongoing Child and Spousal Support Activities (Continued)

- 21 The welfare department ~~will~~ shall provide the District Attorney with any information requested concerning support cases. The welfare department shall also advise the District Attorney's office in writing if any of the following circumstances arise: (Continued)

•218 A child moves from one assistance unit to another or more than one assistance unit is established for the children of the same mother.

•219 A disregard is provided through the grant computation based on direct support payments received and retained by the assistance unit. [See Section 43-201.31.] (Handbook)

Authority: Welfare and Institutions Code Sections 10554 and 10604.

Reference: Welfare and Institutions Code Sections 10553 and 11475; 45 CFR 233.20(j) and 302.51(b).

43-201 CHILD AND SPOUSAL SUPPORT AND PATERNITY (Continued) 43-201

• 3 Child and Spousal Support Collections (Continued)

When support payments are made, the county welfare department shall determine the effect of those payments on the eligibility of the AFDC recipient family. This section deals only with the determination of financial eligibility where a support payment has been made to the district attorney or some other county agency or where the recipient has received the support payment and forwarded it to the appropriate agency.

• 31 If a recipient has received a support payment directly from an absent parent and he or she does not send the payment to a county agency as required under Section 43-107.26, the welfare department shall notify the District Attorney (Section 43-201.215) and treat the payment as unearned income in the month received follows:

• 311 Determine what portion of the direct payment represents the current month support obligation.

• 312 From the amount determined in • 311, disregard an amount up to \$50.00. However, no amount shall be disregarded under this section if a full disregard has been provided under Section 43-201.341.

(a) The IV-A agency must coordinate with the IV-D agency to establish procedures guaranteeing that the total disregard provided does not exceed \$50 in cases that receive and retain support payments.

• 313 Treat the remainder of the direct payment as unearned income in the month received.

• 31.32 When the county collection IV-D distribution agency receives processes a the support payment, either directly from an absent parent or from an AFDC recipient that agency will notify the welfare department of the amount of the collection. The disregard amount, and the date of the support payment was received.

This notice will be given as soon as reasonably possible but not later than 10 days after the end of

the month in which the collecting agency received the payment.

.321 Upon completion of case level distribution in the month following the month of collection, notification from the county distribution agency of the collection and disregard amounts shall be forwarded to the IV-A agency with sufficient time for the redetermination of eligibility and grant computation in the month of distribution.

~~32.33~~ When the welfare department receives a notice of collection amount and disregard computation (~~.3132~~ above), it shall redetermine the AFDC recipient family's eligibility in accordance with Section 44-207. This means that the amount of the collection on the current support obligation, [after allowing the disregard in Section 44-111.47,] will be used in estimating financial eligibility.

~~321.331~~ If the family is determined to be financially ineligible for AFDC, the welfare department shall take action to discontinue aid to the family as soon as administratively practicable (~~Section 42-309.2~~). The welfare department shall also notify the collecting agency that aid has been discontinued so that child support collections for current month obligations received in any month for which the family was ineligible and no aid was paid can be forwarded directly to the family.

~~322.332~~ If the family continues to be financially eligible for AFDC, the IV-D Unit will continue to distribute the collection in accordance with Section 43-203.

~~33.34~~ When the child/spousal support collection is distributed under Section 43-203, certain payments will be made to the family.

.341 Up to the first \$50.00 in support collected which represents payment on the required support obligation (court ordered or voluntary) shall be paid by the IV-A Agency to the assistance unit as a disregard. This payment shall be disregarded as income and resources for eligibility determination and grant computation as specified in 42-213.2(k) and 44-111.471.

~~331.342~~ Any payment made to the family under Sections 43-203.13 and .15 from child/spousal support

collected in any month is considered available income in the month received. [except as specified in 44-111-47.]

Authority: Welfare and Institutions Code Sections 10554, 10604, and 11475.

Reference: Welfare and Institutions Code Sections 11008.14, 11457, 11475; 45 CFR 232.20(a) and (d), 45 CFR 233.20(a)(3) and (j); and 45 CFR 305.51(b).

* The revisions enclosed in brackets were adopted via separate Department of Social Services (DSS) regulations entitled "ORD 0884-37 - Public Law 98-369 [DEFRA] AFDC Revisions" effective October 1, 1984. See Item 1 of the DSS Notice of November 28, 1984 Public Hearing (October 12, 1984 edition of the California Administrative Notice Register).

(16) Adopt MPP Section 43-203.11 to read:

43-203 DISTRIBUTION OF CHILD AND SPOUSAL SUPPORT
PAYMENTS (Continued)

43-203

.1 Child and Spousal Support Collected

Support collected by the designated agency for a recipient of AFDC with respect to whom an assignment pursuant to 43-106.1 is effective, shall be distributed as follows:

- .11 {Has been replaced per Manual Letter No. 129.} Of the amount of collection which represents payment on a current support obligation (court ordered or voluntary), the IV-A agency shall first pay to the assistance unit a disregard payment of up to \$50.00 beginning with current collections received on or after October 1, 1984.
- .111 If the current support collection is less than \$50.00, the assistance unit shall be paid the entire amount.
- .112 If amounts are collected for one assistance unit which represent payments on the required support obligation from two or more absent parents, only one disregard of up to \$50 shall be paid to the family.
- .113 If amounts collected from an absent parent which represent payment on the required support obligation, are for children in multiple assistance units, a disregard of up to \$50.00 shall be paid to each assistance unit from its specified or prorated portion of the collection.
- .114 This disregard payment shall be made by the 5th calendar day of the month following the month of distribution. The distribution month is the month following the month of collection.
- .115 This disregard payment shall apply only to AFDC FG/U, EA-UP and State Only AFDC-U cases. Foster Care (IV-E) cases are not eligible for this disregard payment.
- .116 No payment shall be made under 43-203.11 if the maximum disregard has been provided under 43-201.31.

.117 No payment shall be made under 43-203.11 for a
month in which there is no current support
collection.

Authority: Welfare and Institutions Code Sections 10554,
10604, and 11475.

Reference: Welfare and Institutions Code Sections 11457,
11475; and 45 CFR 232.20(a) and (d), 45 CFR
233.20(a)(3) and (j), and 45 CFR 302.51(b).

(17) Amend MPP Sections 43-203.12 through .15 inclusive, and 43-203.2 "Introductory Paragraph" to read:

43-203 DISTRIBUTION OF CHILD AND SPOUSAL
SUPPORT PAYMENTS (Continued)

43-203

Support collected by the designated agency for a recipient of AFDC with respect to whom an assignment pursuant to 43-106.1 is effective, shall be distributed as follows: (Continued)

.1 Child and Spousal Support Collected

.12 The amount of collection Any amount collected in excess of that distributed in .11 above and which represents payment on the required support obligation for the month of collection, shall be retained by the county to reimburse, in whole or in part, the aid payment for that month. Of the amount retained, the county shall reimburse the state and federal governments to the extent of their participation in the financing of the aid payments.

.13 Any amount collected that is in excess of the amount required to be distributed under .11, and .12 above (and which represents payment on the required support obligation for the month of collection) shall be paid to the family up to the difference between the aid payment in the month of collection and the court ordered amount for the same month. (Continued)

.14 Any amount collected that is in excess of that required to be distributed under .11, .12 and .13 above shall be retained by the county as reimbursement for past assistance payments made to the family which have not been otherwise reimbursed. (Continued)

.15 Any amounts collected which are in excess of the amounts required to be distributed under ~~.12~~ .11 through .14 above and which represent payment on a past support obligation shall be paid to the family. (Continued)

.16 (Continued)

.17 (Continued)

.2 Identification of Payments

Any amount paid to the family pursuant to .13 and .15 shall be identified as a child support payment and not as an aid

payment. Amounts paid under .11 must be identified and paid pursuant to instructions in Section 25-370.

.21 (Continued)

.22 (Continued)

.23 (Continued)

Authority: Welfare and Institutions Code Sections 10554, 10604, and 11475.

Reference: Welfare and Institutions Code Sections 11457, 11475; 45 CFR 232.20 and 45 CFR 302.51(b).

(18) Repeal Section 44-101.2

44-101 INCOME DEFINITIONS

44-101

42 Restricted income is any resource received by or on behalf of a particular child under legal conditions which limit the application of such resource solely to the use and benefit of the particular child. Examples of restricted income include Social Security payments, child support payments and some trust payments. Restricted income does not include the earnings of a child (Section 44-111.2).

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 11008.14 and 11450 (Stats. 1984, Ch. 1447), Sec. 2 and 9); 42 USC Section 602(a)(38) (PL No. 98-369, Sec. 2640); 45 CFR Section 206.10(a)(1)(viii), (49 FR 35589, 35599, September 10, 1984).

(19) Amend MPP Section 44-111.47 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

•4 Exclusions or Exemptions of Other Payments and Income
(Continued)

[.47 Child/Spousal Support Disregard]

[The first \$50 per month of current child/spousal support paid to or on behalf of an assistance unit shall be disregarded when determining both eligibility and grant amount. This disregard applies only to current child support payments and does not apply to spousal support or to child support payment other than current payments. See Section 42-213.2(k).]

[.471 When the child/spousal support payment is received by the county, the amount of the current support payment which is paid to the assistance unit shall be disregarded. This disregard is applied in the month in which the child/spousal support payment is received by the county for eligibility determination and applied in the month in which the disregard payment is received by the assistance unit, if different, for eligibility and grant determination.]

[.472 When the a current child/spousal support payment is directly received by the assistance unit from the absent parent, the first \$50 of such payment is disregarded and the balance of the support payment is considered income to the assistance unit.] See Section 43-201.31. (Handbook)

[.473 The total amount of the current child/spousal support disregard attributable to any month shall not exceed \$50 per assistance unit regardless of whether the child/spousal support is received by the county, with a portion paid to the assistance unit, or the child support payment is received by the assistance unit directly. If in the same month the assistance unit receives a disregard payment from the county attributable to a prior month and also receives a current child support payment directly from an absent parent/spouse, the assistance unit shall be entitled to both disregards. If the assistance unit receives a

payment from the county which consists of payments from current child/spousal support for more than one month, the \$50 limit shall apply only to the total child/spousal support disregard for the month to which the disregard is attributable.]

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[For example, the county received current child/spousal support payments of \$150 in January, \$150 in February and issued the assistance unit a payment of \$100 in March. The total \$100 shall be disregarded in March for purposes of determining eligibility and grant since it is attributable to January and February.]

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Authority: Welfare and Institutions Code Sections 10554, 10604, and 11475.

Reference: Welfare and Institutions Code Sections 11475 and 11008.4; 45 CFR 233.20(a)(3) and (j), and 45 CFR 302.51(b).

- * The revisions enclosed in brackets were adopted via separate Department of Social Services (DSS) regulations entitled "ORD 0884-37 - Public Law 98-369 [DEFRA] AFDC Revisions" effective October 1, 1984. See Item 1 of the DSS Notice of November 28, 1984 Public Hearing (October 12, 1984 edition of the California Administrative Notice Register).

(20) Amend MPP Section 44-113.3 to read:

44-113 NET INCOME (Continued)

44-113

•3 Net Income from Social Security, Railroad Retirement Benefits and Other Pensions

•31 Net income from Social Security or from Railroad Retirement Benefits is the actual amount paid to or on behalf of the recipient from these sources, a member of the assistance unit except:

•311 When Social Security benefits are paid to a representative payee on behalf of a member of the assistance unit and the representative payee does not live in the same household as the assistance unit, the Social Security benefits are counted as income only to the extent that the representative payee makes them available for the support of the beneficiary.

•32 Net income from other types of pensions and similar sources is the amount received or, if the individual is required to pay income tax on such income or has other required expenses in receiving such income, net income is the amount received less these expenses.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 11008.14, 11450 (Stats. 1984, Ch. 1447, Sec. 2 and 9); 42 USC Section 602(a)(38) (PL No. 98-369, Sec. 2640); 45 CFR Section 206.10(a)(1)(viii), (49 FR 35589, 35599, September 10, 1984).

(21) Amend MPP Section 44-113.7 to read:

44-113 NET INCOME (Continued)

44-113

- .7 Child/spousal support which is paid to the recipient by the absent parent and not forwarded to the county or which is collected by the county and paid to the recipient pursuant to Sections 43-203.13 and .15 shall be considered available income when received[▼ except as specified in 44-111.47.]

Authority: Welfare and Institutions Code Sections 10554 and 10604.

Reference: Welfare and Institutions Code Sections 11475 and 11008.14; 45 CFR 233.20(a)(3) and 45 CFR 302.51(b).

- * The revision enclosed in brackets was adopted via separate Department of Social Services (DSS) regulations entitled "ORD 0884-37 - Public Law 98-369 [DEFRA] AFDC REvisions" effective October 1, 1984. See Item 1 of the DSS Notice of November 28, 1984 Public Hearing (October 12, 1984 edition of the California Administrative Notice Register).

(22) Repeal Section 44-115.72

44-115 EVALUATION OF INCOME IN KIND (Continued)

44-115

When a need item is earned or contributed in kind, the income value placed upon such earnings, contributions, etc., is the amount specified below. (Continued)

•7 Nonneedy Relatives (Continued)

•72 Minor Parent Living with Nonneedy Parent(s)

When the FBU consists of a minor parent and his/her children living with his/her nonneedy parent(s), in-kind values for housing, utilities, food and clothing for the minor parent shall be deducted as in-kind income. Additional deductions for the child(ren) of the minor parent shall be made in accordance with •71 above.

Natural or adoptive parent(s) who receive AFDC, APSB, SSI/SSP, EVH or in-home care benefits shall not be considered to be nonneedy parents for purposes of this section.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11008.14 (Stats. 1984, Ch. 1447, Sec. 2); 42 USC Sec. 602(a)(39), (PL No. 98-369, Section 2640); 45 CFR Sec. 233.20(a)(3)(xviii), (49 FR 35600, September 10, 1984).

(23) Repeal Section 44-133.314 to read:

44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

.3 Income in Cases in Which a Parent or Other Caretaker Has Been Excluded from the FBU (Continued)

.31 (Continued)

.314 When an excluded parent's needs are met by a stepparent, that portion of the excluded parent's income counted as income to the FBU is determined by subtracting from gross income all disregards allowed in Section 44-113 except the \$30 and 1/3 or, as applicable, the \$30 disregard. The remainder is income to the FBU.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 11008.14 and 11450 (Stats. 1984, Ch. 1947, Sec. 2 and 9); 42 USC Sec. 602(a)(38) and (39), (PL No. 98-369, Sec. 2640); 45 CFR Sec. 206.10(a)(1)(viii) and 233.20(a)(3)(xviii), (49 FR 35599 and 35600, September 10, 1984).

(24) Amend MPP Section 44-133.62, .63 Title, and 44-133.631 Introductory Paragraph and .631(d) to read:

44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

.6 Income In Cases Where A Stepparent Resides In The Home (Continued)

.62 Needs of Stepparent Unit (Continued)

When the stepparent is excluded from the FBU assistance unit, the county shall determine his/her ability to support the Stepparent Unit on the basis of the AFDC Minimum Basic Standard of Adequate Care (Section 44-207.112) plus the pregnancy special needs, if applicable. See Section 44-211.4. Allow disregards from the stepparent's gross income in accordance with Section 44-133.63(a) through (c).

a. If the stepparent's income meets their combined need, exclude his/her spouse and his/her children from the FBU for purposes of both eligibility determination and grant computation. See EAS 44-206.

b. If the stepparent's income does not meet their combined need, include his/her spouse in the FBU for eligibility determination and grant computation purposes. If aid is requested for any of the stepparent's children, include them in the FBU for these purposes.

.63 Computation of Income to the FBU Assistance Unit (Continued)

.631 The stepparent's income deemed available to the FBU assistance unit is determined as follows: (Continued)

(d) Deduct the MBSAC amount for members of the stepparent unit plus the pregnancy special needs, if applicable. See Section 44-211.4.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11008.14 and 11450 (Stats. 1984, Ch. 1947, Sec. 2 and 9); 42 USC Sec. 602(a)(38) and (39), (PL No. 98-369, Sec. 2640); 45 CFR Sec. 206.10(a)(1)(viii) and 233.20(a)(3)(xviii), (49 FR 35599, 35600, September 10, 1984).

(25) Adopt MPP Section 44-133.7, et. seq. to read:

44-133 TREATMENT OF INCOME - AFDC

44-133

.7 Income in Cases Where the Senior Parents or Legal Guardians Reside in the Home with a Minor Parent.

.71 Definitions

For purposes of this section the following definitions shall apply:

.711 A Minor Parent is a parent who is less than 19 years of age. The term minor parent also includes a pregnant woman less than 19 years of age who has no other children in the home.

.712 A Senior Parent is the natural or adoptive parent of a minor parent.

.713 A Legal Guardian is a person empowered by a court to be the guardian of the minor parent.

.714 A Senior Parent Unit consists of the senior parent or legal guardian, his/her spouse, his/her children and any other persons residing in the home who may be claimed by the senior parent or legal guardian as dependents for federal income tax purposes when they are not in the assistance unit. When the minor parent is excluded from the assistance unit for reasons other than being an SSI/SSP recipient, the minor parent shall be a member of the Senior Parent Unit.

.72 When a minor parent is an SSI/SSP recipient, the income of the senior parent or legal guardian residing in the home shall not be subject to the senior parent computation in Section .75 below. The aid payment and income of the SSI/SSP recipient shall be treated in accordance with Section 44-133.2.

.73 Regulations concerning income to the assistance unit from a senior parent or legal guardian of a minor parent apply only when the senior parent or legal guardian resides in the home with a minor parent and the senior parent or legal guardian is not in the assistance unit.

.74 When the senior parent or legal guardian is included in the assistance unit, the total amount of the senior

parent's or legal guardian's net nonexempt income shall be income to the assistance unit for the purposes of eligibility determination and grant computation.

.75 Computation of Income to the Assistance Unit.

The income of the senior parents or legal guardians to be allocated to the assistance unit shall be determined as follows:

.751 When a senior parent or legal guardian receives lump sum income (Section 44-207.41), the lump sum income shall be treated as income in the month received and is not subject to the lump sum period of ineligibility computation (Section 44-207.42).

.752 Determine the net nonexempt income of each senior parent or legal guardian according to the provisions in Chapter 44-100.

(a) When determining net earned income, each employed senior parent or legal guardian shall be entitled to the following work expense disregards from gross earnings:

(1) When the senior parent or legal guardian worked at least 100 hours and at least 13 days in the month to which the income was earned, allow a \$75 disregard.

(2) When the senior parent or legal guardian worked less than 100 hours or less than 13 days in the month to which the income was earned, allow a \$50 disregard.

(3) When the hours and days are not reported, but information provided is sufficient to determine that the senior parent or legal guardian was employed at sometime during the month, allow a \$50 disregard.

(4) The dependent care expense disregard, the \$30 and one-third disregard and the \$30 disregard shall not be allowed.

.753 Deduct the amounts actually paid by each senior parent or each legal guardian to persons not

living in the home but who are, or could be claimed by the senior parents or legal guardians as dependents for purposes of determining federal income tax liability.

.754 Deduct any child and spousal support paid by the senior parent or legal guardian to persons not living in the home.

.755 Deduct the MBSAC amount for members of the Senior Parent Unit plus any special needs, if applicable. The remainder is net nonexempt income to the assistance unit.

.756 Example: Senior Parents' Income to the Assistance Unit

Computation Factors

- Senior Parent Unit consists of two senior parents and one child.
- AFDC assistance unit consists of a minor parent and an aided child.
- One senior parent earns \$600 within the month from full-time employment.
- One senior parent earns \$100 within the month from part-time employment.
- No payments are made by the senior parents to persons living outside the home.

Computation

\$600 Gross income of senior parent employed full-time

- 75 Less .753(a) work expense disregard

\$525

\$100 Gross income of senior parent employed part-time

- 50 Less .753(b) work expense disregard

\$ 50

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\$575 Net income of both senior parents

-555* Less MBSAC for Senior Parent Unit (3 persons)

\$ 20 Senior parent's income to assistance unit

* This MBSAC amount is subject to change. Use currently applicable amount specified in 44-207.122.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11008.14 (Stats. 1984, Ch. 1447, Sec. 2); 42 USC Sec. 602(a)(39), (PL No. 98-369, Sec. 2640); 45 CFR Sec. 233.20(a)(3)(xviii), (49 FR 35600, September 10, 1984).

(26) Repeal existing and Adopt new Section 44-133.8 to read:

44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

8 Restricted Income

81 When a child with restricted income (Section 44-101.2) is included in the Family Budget Unit (Section 44-205) his restricted income is income to the Family Budget Unit.

82 When a child with restricted income (Section 44-101.2) is not included in the Family Budget Unit (Section 44-205) the restricted income shall not be treated as income to the Family Budget Unit except to the extent that the restricted income is actually used for or contributed to Family Budget Unit members.

8 The Income of Other Unaided Children in the Home

The income of any child in the home required to apply for aid in Section 40-118 who is not presently being aided shall be computed in accordance with Section 44-133.3.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 11008.14, 11450 (Stats. 1984, Ch. 1447, Sec. 2 and 9); 42 USC Sec. 602(a)(38) (PL No. 98-369, Sec. 2640); 45 CFR Sec. 206.10(a)(1)(viii), (49 FR 35589), 35599, September 10, 1984).

(27) Amend MPP Section 44-133.10 "Introductory Paragraph" and Adopt 44-133.102 to read:

44-133 TREATMENT OF INCOME (Continued)

44-133

.10 Income in Cases Where an Alien Has Been Sponsored for Entry into the United States.

.101 When an alien is a sponsored by an individual alien as defined in Section 43-119.2 the income of his/her sponsor who is not receiving AFDC, SSI or other public cash assistance payments (such as General Assistance) and the income of the sponsor's spouse who lives with the sponsor and who is not receiving such public cash assistance payments shall be deemed to be the sponsored alien's income. This income is determined as follows:
(Continued)

.102 When an alien is sponsored by an agency or organization as defined in Section 43-119.3 and the sponsoring agency or organization is unable to meet all of the needs of the alien (Section 43-119.3), income from the sponsoring agency or organization shall be treated as net nonexempt income to the sponsored alien.

Authority: Welfare and Institutions Code Sections 10554 and 10604.

Reference: Welfare and Institutions Code Sections 11008.13 and 11008.14; 45 CFR 233.51 and 45 CFR 233.20(a)(3)(ii).

(28) Amend MPP Section 44-203 "Title" and .3 to read:

44-203 PERSONS WHO MAY BE INCLUDED IN THE FBU - DEFINITIONS 44-203

.3 Other Relatives Living in the Home of an Eligible Child

*31 In order to be considered a relative under this section, a person must register for WIN unless excluded under Section 42-600*51 or exempt under Section 42-630. Those who are exempt from WIN because of remoteness (Section 42-630*6) must register for Employment Services. Those persons excluded from WIN must register for Employment Services unless they would be exempt under Section 42-630 criteria.

*32 A relative is considered to be living in the home of an eligible child even though the relative and/or child is temporarily absent from the home. Temporary absences include: hospitalization, attendance at school, vacationing, moving, trips made in connection with current or prospective employment, and similar situations (see Section 45-302*23 for child temporarily absent from an AFBC-FC eligible facility).

*31*33 Other relatives include:

.3311 Second married or unmarried parent (natural or adoptive).

.3312 Stepparents who are:

a. unemployed (see Section 41-440.1 for definition of unemployment)

b. the spouse of an eligible child's natural or adoptive parent when the basis of deprivation is the incapacity of a natural or adoptive parent.

*333 (Repeated by Manual Letter Nov 81-36)

*334 (Repeated by Manual Letter Nov 81-36)

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11450
(Stats. 1984, Ch. 1447, Sec. 9); 42 USC Section
602(a)(38), (PL No. 98-369, Sec. 2640); 45 CFR
Section 206.10(a)(1)(vii), (49 FR 35599, September
10, 1984).

(29) Amend MPP Section 44-205 "Title" and .2 to read:

44-205 PERSONS WHO ARE INCLUDED: FBU COMPOSITION
ESTABLISHING THE FBU

44-205

.2 Establishing the FBU Determining the Caretaker Relative(s)

.21 When an applicant for AFDC submits the Form CA 2, it includes the names of all potentially eligible children living in the home for whom aid is being requested. The first step in establishing the FBU is to determine the caretaker relative(s) of the children for whom aid is requested or of an otherwise eligible child(ren) who is receiving SSI/SSP. It is necessary to identify the caretaker relative(s) in order to determine if there will be one or more FBU's (see Section 44-203.21 Definition of Caretaker Relative above).

.211 Generally, if the child is living with a parent, the parent is the caretaker relative. If the child is not living with a parent, generally the applicant will be the caretaker relative. The county must make a determination of what person or persons have responsibility for the care and control of the children for whom aid is requested based on information supplied by the applicant.

.212 An FBU without a child can be established when the only otherwise eligible child(ren) is receiving SSI/SSP. (See Section 44-205.23.)

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(a) Department of Social Services - All-County letter No. 83-124 (issued November 27, 1983) instructed counties to apply the Zapata vs Woods court order to all applications received on or after December 1, 1983 and to continuing cases on an ongoing basis.

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.3 Determining the Number of FBU's in the Home

.22.31 Once the county has determined which person or persons in the home is a caretaker relative, it is possible to establish the FBU. All of the eligible child(ren) for whom aid is requested will be in one FBU if there is only one caretaker relative in the home. If there is more than one caretaker relative in the home, the eligible children of each caretaker will be in separate FBU's, except in the following situations:

*227.311 Only one FBU is established where the caretaker relative is a parent who could be included as an eligible child in the FBU of another caretaker relative in the home. (Deprivation for all the eligible children must be established per EAS Chapter 41-400.)

Example: A common example would be when a daughter in her parent's FBU has a child and aid is requested on behalf of that child. If the daughter continues to meet all other eligibility requirements as a child in her parent's FBU and her child is otherwise eligible, then her child is added to the existing FBU. This applies even if the father of the daughter's child is living in the home so long as deprivation continues to exist. When the otherwise eligible father of the daughter's child is living in the home he must be added to the existing FBU as the second parent of an eligible child (Section 44-205.232412).

*222.312 Only one FBU is established where two caretaker relatives in the home have separate children and also have a child in common for whom aid is requested.

*223.313 Only one FBU is established where the two caretaker relatives in the home are married to each other and have separate children.

*224.314 Only one FBU is established when a pregnant woman in the home can be included as an eligible person in an existing or applicant FBU. See *2664 for establishing an FBU for a pregnant woman who cannot be included in an existing or applicant FBU.

•4 Persons who are Required to be Included in the FBU

*23.41 Every FBU shall include at least one eligible child or pregnant woman with the following exception: when the only otherwise eligible child in the home must be excluded pursuant to due to receipt of SSI/SSP (see Section 44-206.1(a)), that child shall be considered the basis for establishing an FBU for the needy relative(s) when the child meets the criteria specified in Section 44-203.1. The FBU shall also include the following persons living in the home:

~~231.411~~ The natural or adoptive parent who is the caretaker relative of the child(ren); and

~~232.412~~ The eligible child's second married or unmarried natural or adoptive parent.

~~.413~~ Every eligible natural or adoptive brother, half-brother, sister, or half-sister of the child for whom aid is requested and/or who is considered the basis for establishing the FBU unless the brother or sister is a member of a different FBU per Section 44-205.31.

~~.42~~ When the family has complied with the provisions of Section 40-118 and a person who is required to be included in the FBU under .41 above wishes to decline assistance, that person may be left out of the FBU but his/her income and resources will be considered available to the same extent as if he/she were included in the FBU. See Chapter 42-200 for determination of resources. Net income will be computed in accordance with Section 44-133.3.

.5 Persons Who May be Included in the FBU

~~24.51~~ Additional relatives living in the home may be included in the FBU on request of the applicant or recipient.

At the time of application, redetermination, or at any other time the recipient informs the county of any other relatives in the home, the county shall identify for the applicant or recipient which additional relatives in the home may be included in the FBU, and the county shall advise the applicant or recipient of the effect of including or excluding such relative(s). This advice shall include a description of the FBU composition which will result in the maximum aid to which the family is eligible (considering the income and resources of each person who may be included). The following relatives shall be included upon request of the applicant or recipient in the FBU unless excluded pursuant to Section 44-206.1:

~~241~~ Other related eligible children (Sections 40-121.3 and 44-317.62)

~~242.511~~ The caretaker relative who is not a parent.

~~243.512~~ Stepparents who are:

(a.) unemployed (see Section 41-440.1 for definition of unemployment).

(b.) the spouse of an eligible child's natural or adoptive parent when the basis of deprivation is the incapacity of a natural or adoptive parent.

*244 (Repeated by Manual Letter No. 81-36)

*245 (Repeated by Manual Letter No. 81-36)

6 Aid Based on Pregnancy

*25.61 In determining eligibility for AFDC and the pregnancy special need payment, and for determining FBU composition, the term "pregnant woman" includes a pregnant child.

.62 When the unaided father of the unborn is living in the home with a pregnant woman who is in an FBU of one without an eligible child, the father is an excluded parent and his income is treated in accordance with Section 44-133.3.

.63 The application for aid based on pregnancy and/or the application for the pregnancy special need is considered an application for the "family". See Section 40-103.5. In addition to the pregnant woman, the family includes the following:

(a).631 The unborn, when born and living with the mother, and

(b).632 The father of the unborn when he is in the home at the time application is made and through the month of birth. See Section 44-206.1(k).

*26.64 An FBU of one without an eligible child may be established for a pregnant woman who meets all of the following conditions:

*261.641 The pregnant woman and the unborn child, if born and living with the mother, would be eligible for AFDC in the month of payment.

*262.642 The woman has provided medical verification of pregnancy to the county.

Medical Verification is a written statement from a physician or physician's assistant or by an authorized member of the physician's staff with

access to the patient's medical record that provides information sufficient to substantiate the diagnosis and estimated due date.

*263.643 The pregnant woman could not be an eligible person in an existing or applicant FBU.

*264.644 When the deprivation of the pregnant woman one-person FBU is State-only AFDC-U, the limitation in EAS Section 41-440.125 applies.

.7 Separate FBU

*27.71 A separate FBU for an otherwise eligible person(s) whose needs were not considered in the lump sum computation may be established when the existing FBU is in the period of ineligibility resulting from receipt of lump sum income.

*28.72 When an FBU is ineligible as a result of having received three months of State-only AFDC-U program benefits in a 12 consecutive month period, a separate FBU may be established for an otherwise eligible person(s) in the home whose needs have not been considered for the State-only AFDC-U program.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 11008.14 and 11450 (Stats. 1984, Ch. 1447, Sec. 2 and 9); 42 USC Section 602(a)(38), (PL No. 98-639, Sec. 2640); 45 CFR Section 206.10(a)(1)(vii), (49 FR 35589 and 35599, September 10, 1984).

(30) Amend MPP Section 44-206.1 "Introductory Paragraph", Repeal 44-206.1(b) and Amend 44-206.22 "Introductory Paragraph to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM THE FBU

44-206

- 1 The following persons must be excluded from the FBU (even if it would be appropriate to include them under Section 44-205.234 or .24.5): (Continued)

- (b) Persons whose needs are met by the stepparent pursuant to Section 44-133.6.

- 2 The entire family is ineligible for aid payments when: (Continued)

- 22 A natural or adoptive parent living in the home of the aided child or a pregnant woman aided under Section 44-205.2662 (one person FBU) is participating in a strike on the last day of the month. The FBU remains ineligible for any subsequent month(s) in which the county can reasonably estimate that participation in the strike will continue through the last day of the month. If aid is discontinued or denied because the county estimated that the parent or pregnant woman would be participating in a strike through the last day of the month and the applicant or recipient later reports that participation in the strike ceased before the last day of the month, the county shall rescind the discontinuance or denial and issue the correct grant. (Continued)

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 11450 (Stats. 1984, Ch. 1447, Sec. 9); 42 USC Section 602(a)(38), (PL No. 98-369, Sec. 2640); 45 CFR Section 206.10(a)(1)(vii), (49 FR 35599, September 10, 1984).

(31) Amend MPP Section 44-207.211(b) to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

•2 185 Percent Income Limit for Eligibility (Continued)

•21 Description of [185] Percent Income Limit (Continued)

•211 After application of the appropriate exemptions and exclusions not otherwise precluded by this section, income considered in the [185] percent income limit is the total of gross income as defined in Chapter 44-100. For purpose of the [185] percent income limit, the following exceptions shall apply: (Continued)

(b) The child/spousal support collected by the county shall be included in gross income[, except as specified in Section 44-111.47.]

Authority: Welfare and Institutions Code Sections 10554, 10604, and 11475.

Reference: Welfare and Institutions Code Sections 11008.14 and 11475; 45 CFR 233.20(a)(3) and (j), and 45 CFR 302.51(b).

* The revisions enclosed in brackets were adopted via separate Department of Social Services (DSS) regulations entitled "ORD 0884-37 - Public Law 98-369 [DEFRA] AFDC Revisions" effective October 1, 1984. See Item 1 of the DSS Notice of November 28, 1984 Public Hearing (October 12, 1984 edition of the California Administrative Notice Register).

(32) Amend MPP Section 44-309.1 and Repeal Section 44-309.12 as follows:

44-309 PROTECTIVE PAYMENTS IN APPLYING THE CHILD
SUPPORT SANCTION

44-309

Choosing, appointing and reviewing protective payees.

.1 When the parent or needy caretaker relative is excluded from the FBU assistance unit pursuant to Sections 44-206.14(e)1(d)(1) or 44-206.14(e)1(d)(2), the payment for the FBU assistance unit shall be made in its entirety by protective payments provided the county is able to locate an appropriate protective payee. See Section 44-310. Where protective payments are made solely because of a failure to cooperate or to assign support rights pursuant to Sections 43-106 or 43-107.1: (Continued)

.12 No further payments may be made directly to the recipient

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 10554; 42 USC Section 602(a)(26)(B), (PL No. 98-369, Sec. 2634); 45 CFR Sec. 234.60(a)(13), (49 FR 35603, September 10, 1984).

(33) Adopt MPP Section 44-310 to read:

44-310 EXCEPTION TO PROTECTIVE PAYMENTS REQUIREMENT 44-310
UNDER SECTIONS 42-691.5 AND 44-309

- .1 Protective payments under Sections 42-691.5 and 44-309 are not required if, after making all reasonable efforts (see .2 below), the county is unable to locate an appropriate individual to whom protective payments can be made. In this case, the county shall continue to make payments on behalf of the remaining members of the assistance unit to the sanctioned caretaker.
- .2 At a minimum, reasonable efforts on the part of the county to locate a protective payee shall include the following actions:
 - .21 Inform the sanctioned individual that the county is required to make protective payments if it is able to locate an appropriate protective payee.
 - .22 Ask the sanctioned individual to name a person who can act as the protective payee, and explain the selection criteria of Section 44-309.13 to the sanctioned individual.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553, 10554 and 11308 (Stats. 1984, Ch. 1447, Sec. 8); 42 USC Sec. 602(a)(19)(F)(i) and (602)(a)(26)(B), (PL No. 98-369, Sec. 2634); 45 CFR Sec. 234.60(a)(12) and (13), (49 FR 35603, September 10, 1984).

FACE SHEET
(OAL-4)

85-0110-4F
(See Instructions on Reverse)

ORD #1284-63

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED FOR FILING

JAN 10 4 13 PM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JAN 18 1985

Office of Administrative Law
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1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services
(AGENCY)

BY: Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

JAN 18 1985
At 10:46 o'clock A.M.
MARCH FONG EU, Secretary of State
By: Mayorie Hushberger
Deputy Secretary of State

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AGENCY CONTACT PERSON AND POSITION

Angie Teixeira, Regulations Analyst

TELEPHONE

323-0884

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: SECTIONS AMENDED
63-102(c)(2) thru (c)(6); 63-503.232(a); 63-504.324; .325; 63-504.422(c); 63-505.4(a)
SECTIONS ADOPTED
63-048, 63-102(c)(2); 63-504.324(c); .325(a)
SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☒ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
- Other Regulatory Actions:
- ☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☒ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

January 18, 1985

b. DATE OF ADOPTION OF REGULATION(S)

January 9, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective on January 18, 1985 as required by statutes: (list) AB 1557, Ch. 1447, Stats. 1984 (PL 98-369) Federal Deficit Reduction Act of 1984.
- c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
- ☐ Request Attached
- d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Adopt new Section 63-048 to read:

63-048 IMPLEMENTATION OF THE DEFICIT REDUCTION ACT (DEFRA) 63-048
REGULATIONS FOR CHILD/SPOUSAL SUPPORT DISREGARD PAYMENTS

Sections 63-503.232, 504.324 and .325, 504.422 and 505.4 as amended or adopted herein, shall become effective upon filing with the Secretary of State with a retroactive implementation to October 1, 1984 to coincide with the implementation date of the DEFRA regulations in the AFDC program.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.21(j)(1)(ii).

Renumber Subsections 63-102(c)(2) through (c)(6) to (c)(3) through (c)(7) respectively and adopt new Subsection 63-102(c)(2) to read:

63-102 DEFINITIONS (Continued)

63-102

c. (Continued)

(2) "Child/spousal support disregard payment" means those payments received from an absent parent, and issued to recipients of Aid to Families with Dependent Children (AFDC) in accordance with federal law, PL 98-369, Section 2640, of the Deficit Reduction Act (DEFRA). These payments are disregarded as income for the AFDC program, but shall be considered income for the Food Stamp Program.

~~†2†~~(3) (Continued)

~~†3†~~(4) (Continued)

~~†4†~~(5) (Continued)

~~†5†~~(6) (Continued)

~~†6†~~(7) (Continued)

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18904; and 45 CFR 302.51(b) and 233.20(a)(4).

Amend Section 63-503.232(a) to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT 63-503
LEVELS (Continued)

•2 Determining Resources, Income and Deductions (Continued)

•23 Households Subject to Retrospective Budgeting After the
Beginning Months (Continued)

•232 Retrospective Budgeting (Continued)

(a) Actual Income

For purposes of determining the household's level of benefits for the issuance month, the CWD shall take into account the household's actual reported income for the budget month, except for child/spousal support disregard payments. Because the CWD is the agency making these payments, action shall be taken on the CWD information.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902; and 7 CFR 273.21(j)(1)(ii).

Amend Section 63-504.324 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

•3 Monthly Reporting (Continued)

•32 Complete CA 7 (Continued)

•324 All questions and items pertaining to food stamp eligibility are fully answered and provide the CWD with the information to correctly determine eligibility and benefit level, except as specified in Section 63-504.324(c).

(a) To be considered fully answered, information on the CA 7 together with attached documentation must provide sufficient information to allow for the determination of eligibility and/or benefit level except for the following:

(1) If earnings are reported the name of the person(s) who received the income, amount of pay and date(s) received, and the days and hours worked must be on the CA 7. In addition, documentation must be attached to the CA 7.

(2) If elements pertaining to one program's requirements are missing from the CA 7, the CA 7 shall be considered incomplete for that program only.

(b) Questions on the CA 7 shall not be considered fully answered if situations such as, but not limited to the following, exist:

(1) The CA 7 does not include information on changes that the household has previously reported to have occurred, i.e., an actual change that the household reported to the CWD by telephone was not included on the CA 7; or

- (2) The CA 7 does not include information that was reported on the previous CA 7 and the household does not indicate a change has occurred, e.g., the household previously reported earnings from two sources and this month reports earnings from one source but does not explain the change.

(c) The CWD shall not consider the CA 7 incomplete if information regarding child/spousal support disregard payments has not been included.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.21(j)(1)(ii).

Amend Section 63-504.325 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

.3 Monthly Reporting (Continued)

.32 Complete CA 7 (Continued)

.325 Verification is provided for gross nonexcluded earned income each month and nonexcluded unearned income when first reported and when there is a change, except as specified in Section 63-505.311~~+~~ and 63-504.325(a).

(a) For child/spousal support disregard payments, the agency record shall be the verification.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.21(f).

Amend Section 63-504.422(c) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

•4 Effecting Changes for Nonmonthly Reporting Households
(Continued)

•42 Action on Reported Changes (Continued)

•422 Increase in Benefits

- (c) Changes which result in an increase in the household's benefits shall be verified, in accordance with the requirements of Section 63-300.5, prior to taking action on these changes, except as specified in Section 63-504.325(a). The household shall be allowed 10 days from the date the change is reported to provide the required verification. If the household provides verification within the 10 days, the CWD shall take action on the changes within the time frames specified in Sections 63-504.422(a) and (b). These time frames shall run from the date the change was reported. If, however, the household fails to provide the required verification within 10 days after the change is reported, but provides the verification at a later date, the time frames specified in Sections 63-504.422(a) and (b) for taking action on changes, shall run from the date verification is provided. In cases where the CWD has determined that a household has refused to cooperate, as defined in Section 63-505.1, the CWD shall terminate the household's eligibility following a timely notice of adverse action (DFA 377.4).

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.21(f).

Amend Section 63-505.4(a) to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued)

63-505

•4 Verification Responsibilities for Monthly Reporting Households

Monthly reporting households shall provide verification of the following information reported on the CA 7:

- (a) Gross nonexcluded earned income each month; nonexcluded unearned income and the source of excluded income when first reported and when there is a change, except as specified in Sections 63-505.311, and 63-504.325(a).

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.21(j)(1)(ii).

FACE SHEET
(OAL-4)

85-0115-2E
(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #1084-46

RECEIVED FOR FILING

JAN 15 3 55 PM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JAN 22 1985

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services
(AGENCY)

BY: Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

JAN 22 1985
At 4:52 o'clock P.M.

MARCH FONG EU, Secretary of State

By: Marjorie Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Rick Torres, Regulations Analyst

TELEPHONE

5-0313/3-0883

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: MPP 22-001.121 (a)-(c); 22-001.7; 22-003.2 & .22; 22-023.11; and 63-804.631 & .632

SECTIONS ADOPTED

22-023.111-115 and 63-804.631 (b) & (c)

SECTIONS REPEALED

22-023.111 & .112

3. TYPE OF ORDER (CHECK ONE)

☐ Regular

☒ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☐ No

☒ Yes, if yes give date of previous filing December 28, 1984

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPCC Approval Stamp)

☒ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

January 11, 1985

b. DATE OF ADOPTION OF REGULATION(S)

January 15, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

Not Applicable

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☒ Effective upon filing with the Secretary of State (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)

☒ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Amend Section 22-001.121 to read:

22-001 DEFINITIONS (Continued)

22-001

.1 (Continued)

.12 Filing Date

.121 All written requests for hearings shall be date stamped by the agency on the day the request is received. Unless the evidence indicates otherwise, the filing date of the claimant's written request for a state hearing shall be determined as follows:

- (a) If the request is mailed to the Office of the Chief Referee or to the county welfare department, the postmark date of the envelope;
- (b) If the request is delivered by hand to the Office of the Chief Referee or to the county welfare department, the date stamped on the request for hearing;
- (c) If the date cannot be determined by the methods described above, two days before the request was stamped "received" by the Office of the Chief Referee or the county welfare department;

Amend Section 22-001.7 to read:

22-001 DEFINITIONS (Continued)

22-001

- .7 COUNTY - For purposes of this division, "county" generally refers to the county welfare department. The term "county welfare department" is used in Sections 22-001.12, 22-003 and 22-023 to mean the welfare department i. the county in which the recipient resides or the county that has taken the action or inaction with which the recipient is dissatisfied. Any references to "county" however, may also refer to any agency

or contractor whose actions may be subject to a state hearing.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 10950.

Amend Section 22-003.2 and .22 to read:

22-003 . RIGHT TO STATE HEARING (Continued)

22-003

- .2 A request for a state hearing may be either written or oral. A written request must concerning county administered state aid programs shall be filed in the Office of the Chief Referee with the county welfare department, and for all other state aid programs, the request shall be filed with the State Department of Social Services in Sacramento. All oral requests must shall be filed in person or by telephone or made to the State Department of Social Services in Sacramento. A toll-free number is available for this purpose. The Department of Social Services shall maintain a toll free number for the receipt of oral hearing requests. If the county has been authorized by the Chief Referee's Office to receive written or oral hearing requests in that county, the request may be filed with that county.

.21 (Continued)

- .22 When a written request for a state hearing is received by an authorized the county welfare department, a copy shall be forwarded to the Office of the Chief Referee in Sacramento no later than three(3) days after its receipt.

If the request for hearing concerns an action which is subject to the adequate notice provisions, a copy of the applicable notice shall be sent with the request.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Sections 10553 and 10950.

Amend Section 22-023.11, repeal and adopt Sections 22-023.111 and .112, and adopt Sections 22-023.113, .114, and .115 as shown:

22-023 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE 22-023 STATE HEARING

.1 Preliminary Review

.11 Upon receipt of a request for hearing or notice that a recipient has filed a request for a state hearing the county shall provide aid pending the state hearing in accordance with Section 22-022, when entitlement exists. Such payment shall be made within five (5) working days of the receipt of the hearing request by the appropriate agency as specified in Section 22-003.2, or the date the regular scheduled aid payment would otherwise have been paid to the recipient, whichever is later. If aid pending the hearing is not appropriate under Section 22-022, the county may continue with its proposed action.

.111 Within two working days determine whether the claimant is entitled to aid pending the state hearing in accordance with Section 22-022 and

.111 Unless the evidence indicates otherwise, the receipt date for purposes of providing (issuing) aid paid pending shall be determined as follows:

(a) The date the written request is received by the county welfare department for county administered aid programs or the date the request is received by the State Department of Social Services for all other state aid programs.

(b) The date the oral request is received by the State Department of Social Services in Sacramento.

.112 Immediately authorize payment if the claimant is so entitled and has not voluntarily and knowingly waived aid pending the hearing. In no event shall the county delay action until an aid paid pending determination is made at the hearing. If aid pending the hearing is not appropriate under Section 22-022, the county may continue with its proposed action.

.112 The county welfare department shall compute the five (5) day time limitation for paying aid paid pending from the date:

(a) A written request for a state hearing is received by the county welfare department.

(b) The county welfare department is notified by the Office of the Chief Referee that it has received a written request for a state hearing.

(c) An oral request for hearing is received by the State Department of Social Services in Sacramento.

.113 Upon receipt of an oral hearing request, the State Department of Social Services shall, within one (1) working day of that receipt, notify the respective county that an oral hearing request has been filed and provide the county with sufficient information to provide aid paid pending when appropriate.

.114 Misdirected Requests

(a) In the event that a written hearing request is filed erroneously with the Office of the Chief Referee, rather than with the county welfare department, the State Department of Social Services shall forward such requests to the respective county.

(b) For requests filed erroneously in a county in which the claimant does not reside, and in which the county welfare department has not taken any action or inaction with which the claimant is dissatisfied, these requests shall be forwarded to the State Department of Social Services. The State Department of Social Services shall forward such requests to the proper county as defined in Section 22-001.7.

.115 For state aid programs not administered by the county welfare department, the Department shall issue aid paid pending, when entitlement exists, to a recipient within five (5) working days of the date a written or oral request for a state hearing is received by the State Department of Social Services.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 45 CFR 205.10(a)(6) and (7); and Saldivar vs. McMahon

Renumber existing Section 63-804.63 to 804.631 and .632 and amend Sections 63-804.631 and .632 to read:

63-804 STATE HEARINGS (Continued)

63-804

•6 (Continued)

•63 Time Frames for Providing Continuation of Benefits

•631 The CWD shall provide continued benefits to any household entitled to such benefits within five (5) working days of following the date:

(a) The CWD receives a written notification request from SDSS of the household's request; or

(b) The CWD is notified by SDSS of the household's written request for a hearing; or

(c) SDSS receives the household's oral request for a hearing.

•632 Continued benefits shall not be provided to the household prior by to the first regular issuance date that when the household's benefits would have been reduced or terminated. ✓ whichever is later ✓ except for EWBs which have local intake. EWBs with local intake shall provide continued benefits within these time frames from the date the household submits its written request to the EWB.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: 7 CFR 273.13(a)(3)(vi).

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

ORD #0484-17

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED FOR FILING
DEC 27 10 04 AM '84
OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

JAN 28 1985

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

Linda S. McMahon

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

JAN 28 1985

At 4:31 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Maigie Hershberger*
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Andy Molina, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: Manual of Policies and Procedures (MPP) Sections: 42-675, 42-677, 42-680, 42-685,
SECTIONS ADOPTED and 42-691.

SECTIONS REPEALED

42-691

3. TYPE OF ORDER (CHECK ONE)

- ☒ Regular ☐ Emergency (Attach Finding of Emergency) ☐ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☒ No ☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

June 29, 1984

b. DATE OF ADOPTION OF REGULATION(S)

November 14, 1984

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

September 21, 1984

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective on _____ as required by statutes: (list) _____
c. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☐ Effective on _____ (Designate effective date *later than* 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Amend EAS Sections 42-675.1, .2, .3, and .4 to read:

42-675 INDIVIDUALS TO BE SERVED BY THE SAU

42-675

.1 General

- .11 The SAU provides or arranges for supportive services to for WIN registrants and their families, when such services are necessary to enable the registrant to accept employment or participate in the WIN Program.

Subject to further limitations, registrants can be:

(a).111 AFBE applicants. Certified or uncertified AFDC applicants; or

(b).112 Certified or uncertified AFDC recipients; or

(c).113 Discontinued Former AFDC recipients who remain in WIN components discontinued from aid due to employment.

- .12 The WIN supportive services to be provided are those specified under described in Section 42-680. These are provided either in two ways: the form of staff services or purchased services subject to the conditions and limitations specified in .2 and .3 below.

(a) Staff Services -- which are those services provided by the SAU workers such as counseling and

(b) WIN Purchased Services -- which are those services purchased using WIN supportive services funds.

Whether an individual can receive WIN purchased services and the duration of any such services depends upon:

(1) Whether he/she is an applicant or recipient.

(2) Whether he/she is certified or uncertified.

.2 Staff Services

- .21 Staff services are those services provided by the SAU worker. They include any of the services outlined in Section 42-680 as well as the SAU staff time spent in

arranging for WIN purchased services or services to be provided from title XX or any other available sources.

- .22 Staff services can shall be provided made available to all registrants and their families. This includes all applicant registrants, certified and uncertified registrants, and all registrants in a WIN component (participants). Such services shall also be made available to former recipients who are discontinued from aid due to employment.

.3 WIN Purchased Services

- .31 WIN pPurchased services are services arranged by the SAU worker, but not actually provided by the SAU worker. WIN pPurchased services are paid for from WIN supportive service funds.

- .32 In order to provide a WIN purchased service, it is required that the service be necessary to enable a registrant to accept and retain employment or training for employment.

WIN purchased services are not available to applicants.

WIN purchased services are not available to an uncertified registrant recipient.

If a WIN purchased service is necessary in order to complete certification and enable the uncertified registrant to accept employment or training for employment, the individual must be certified and then the service provided.

- .332 Certified registrants between components.

WIN pPurchased services may be provided for up to two weeks to a registrant between participation in WIN components or between participation in one a component or employment-related activities and the start of employment in order to avoid interruption of the employability process.

- .333 Certified registrants, unassigned to any components.

WIN pPurchased services may be provided to certified registrants when required to enable the individual to accept training or employment, or to participate in WIN employment-related activities.

.34 All recipients shall be certified before receiving purchased services. All AFDC applicants, certified or not, may be provided purchased services necessary to enable them to participate in employment-related activities required by an approved employability plan.

.341 Applicants who receive purchased services shall be certified when they become recipients.

.335 Duration of Purchased Services

WIN purchased services are available to all certified registrants. The duration of such purchased services is limited, however, as follows for an applicant cease when AFDC is denied. Purchased services for a recipient are limited to:

.3351 Individuals in WIN OJT components:

(a) Necessary WIN purchased services shall continue for the duration of the components, except for WIN/OJT, WIN/PSE components, and suspense to EETA/OJT and EETA/PSE components, and suspense to EETA/OJT and EETA/PSE, even though the AFDC benefits have been terminated.

(b) When a certified individual enters WIN/OJT or WIN/PSE, EETA/OJT or EETA/PSE, necessary purchased supportive services shall continue for a period of 30 days after the start of subsidized employment. Discontinued recipients shall be eligible only if even though the AFDC benefits have been terminated, discontinued due to employment.

(c) When the SAU determines it is necessary to enable the registrant to remain in the OJT component, they may authorize the continuation of such services may be authorized for an additional 60 days. Discontinued recipients shall be eligible only if even after AFDC benefits have been terminated discontinued due to employment.

.3352 For certified individuals who enter unsubsidized employment:

(a) Necessary WIN purchased services shall continue for 30 days to a certified

individual who enters unsubsidized employment. It is not required that the services be purchased from WIN supportive service funds if other sources are available, however.

- (b) WIN purchased services may continue for an additional 60 days at the discretion of the SAU when necessary to enable the registrant to remain employed.
- (c) Such services may continue even though the for discontinued recipients only if the AFDC grant may have has been terminated discontinued due to employment.

.346 WIN purchased services for working registrants.

.3461 In special circumstances, working registrants who are not currently receiving WIN purchased services, may be provided day care services. Such services are limited as follows:

- (a) There has been a breakdown in day care due to unforeseeable circumstances. Changes in day care arrangements which can be anticipated, such as the end of the school year, are not considered exceptional circumstances; and
- (b) The failure to provide the day care would result in the loss of existing employment; and
- (c) Provision of day care would enable the registrant to continue employment; and
- (d) The services are not available on a timely basis from Title XX or any other source.

.3462 Under special circumstances WIN purchased services other than day care may also be provided.

.3463 Provision of the WIN purchased services under this section is limited to a maximum of 30 days.

.3464 This service may not be used as a means of automatically extending the usual duration of WIN purchased services.

•345 If the individual is uncertified when the need for the service arises, the SAU is to initiate the certification.

•4 Title ** Services or Services From Other Sources

•41 At times, the registrant or a member of his/her family may require services which cannot be paid for from WIN supportive services funds or which cannot be provided by the SAU worker. In such instances, the SAU worker should make every effort to arrange for such services to be provided from available Title ** or other available service programs.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Section 11300, 42 USC 602(a)(19)(G)(ii), 45 CFR 224.22, 45 CFR 224.30, and 45 CFR 224.41.

(2) Amend EAS Sections 42-677.22 and .31 to read:

42-677 CERTIFICATIONS (Continued)

42-677

.2 Time of Certification (Continued)

.22 All other applicant/recipient registrants: (Continued)

.3 Relationship of Certifications to the Provision of the Services

.31 A certification is not required in order to provide counseling or other services directly provided by SAU staff to registrants (applicants or recipients). Such services are chargeable to WIN as SAU staff costs.

However, WIN purchased services may not be provided to the registrant unless he/she is certified.

If WIN purchased services are not available, efforts should be made to use other programs such as Title XX. Any staff time necessary to arrange for such services are chargeable to WIN as SAU staff costs.

Purchased services shall not be provided to a recipient unless he/she is certified. An applicant does not need to be certified in order to receive purchased services.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Section 11300, 42 USC 602(a)(19)(G)(ii), 45 CFR 224.22, 45 CFR 224.30 and 45 CFR 224.41.

(3) Amend EAS Sections 42-680.12 through .132 inclusive; .162, .163, and .171 to read:

42-680 MANDATED SUPPORTIVE SERVICES (Continued)

42-680

.1 Child Day Care Services (Continued)

- .11 Definition. Child day care is the comprehensive and coordinated sets of activities providing direct care and protection of infants, preschool and school age children during a portion of a 24-hour day inside or outside of the child's own home.

.12 Child Day Care Standards

Child day care arrangements provided through WIN must meet the same standards as are required under Title XX 22, California Administrative Code (CAC), Division 9, Chapter 2 (commencing with Section 81000) and Chapter 8.5 (commencing with Section 88001).

.13 Child Day Care Plans (Continued)

A child day care plan is a written agreement between the SAU, the provider, and the WIN certified registrant which comprehensively describes for whom and under what specific circumstances child day care will be provided.

There must be a written plan for each certified registrant who receives WIN-funded child day care. This plan will include the following information:

- a. The name, address, and case number of the WIN certified registrant.
- b. Case name, if different from the above.
- c. Date the plan is initiated.
- d. Name, birthdate, and sex of child(ren) for whom care is being provided.
- e. The component in which the registrant will participate.
- f. The duration of the component (beginning and ending dates).

- g. The type of care being provided, i.e., in-home, family day care, group day care, or day care center.
- h. Beginning and ending dates of provision of care.
- i. Number of hours of care, e.g., 7:30 a.m. to 3:30 p.m., including normal transportation time.
- j. Total number of hours per week.
- k. Name and address of provider.
- l. Signatures of SAU, the certified registrant, and the provider.
- m. Rate of pay per hour, week or month.
- n. Conditions under which provider will be paid or not paid for absences.

The SAU signature on the child day care plan is the instrument which authorizes expenditure of WIN child day care funds. A copy of the signed plan should be sent to the IMU.

- .131 The SAU should explain to registrants the type of day care available, the suitability of each type of care in relation to the needs of the children, the importance of stability and continuity of care, the length of time WIN-funded day care payments can continue, and the availability of Title XX or other day care after WIN-funded care ends.
- .132 The certified registrant should be involved in the development of a suitable day care plan which may include plans for emergency or interim care as well as for long-term, stable day care.

.16 Child Day Care Costs (Continued)

- .162 All child day care costs for participants are paid from WIN child day care funds following the limitations set forth in Section 42-675.33. Such costs shall be paid on the basis of a monthly claim submitted by the certified registrant or by the provider to the county welfare department. This claim shall be signed by both the certified registrant and the provider. The payment shall not exceed those agreed upon in the child day care

plan and, (upon receipt of the expense claim), shall be adjusted to meet the actual allowable expense incurred.

- 163 Costs of the transportation to and from day care locations of a child of a certified registrant may be charged to WIN manpower funds as part of the transportation allowance to and from the employment or training.

- 163 The Standard Training Related Expenses (TRE) paid by the WIN sponsor include the cost of transportation to-and-from day care locations.

- 17 Child Care Provided by State Department of Education Contract Centers (Continued)

- 171 WIN child day care funds are used to pay for WIN child(ren) care in SDE Contract Centers that meet State ** standards under Title 22, California Administrative Code (CAC), Division 6, Chapter 2 (commencing with Section 81000) and Chapter 8.5 (commencing with Section 88001).

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Section 11307, Section 2005(a)(7) of the Social Security Act, 42 USC 1397d(a)(7), 42 USC 602(a)(19)(G)(ii), 45 CFR 224.22 and 45 CFR 224.30.

(4) Amend EAS Section 42-685.2 to read:

42-685 SERVICE CASE RECORD DOCUMENTATION

42-685

The service case record should adequately reflect the following information:(Continued)

.2 If WIN purchased services are provided:

- .21 That the individual is either an applicant or a certified registrant recipient.
- .22 That for every certified registrant there is one a certification record (MA 5-96) which indicates the need for supportive services.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: 42 USC 602(a)(19)(G)(ii), 45 CFR 224.22 and 45 CFR 244.30.

(5) Repeal EAS Section 42-691.43 and amend Section 42-691.44 to read:

42-691 SANCTIONS (Continued)

42-691

•4 Duration of Ineligibility (Continued)

•43 If the individual becomes exempt from WIA registration requirements while he/she is deregistered and he/she requests reinstatement, aid can be reinstated provided all other eligibility factors are met.

•443 Upon the expiration of the sanction period, AFDC can shall be restored, if requested, provided all eligibility requirements are met.

Authority: Welfare and Institutions Code Sections 10553, 10554, and 10604(b).

Reference: Welfare and Institutions Code Section 11308, 45 CFR 224.50 and 45 CFR 224.51.

FACE SHEET
(OAL-4)

84-1228-4C
(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #783-47

RECEIVED FOR FILING

DEC 28 4 20 PM '84

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
JAN 28 1985
Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

State Department of Social Services
(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

JAN 28 1985

At 4:31 o'clock P.M.

MARCH FONG EU, Secretary of State

By Margaret Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Rick Torres, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

Title: 22 SECTIONS AMENDED
63-801.213, .221-224, .411, .711, .83 & .831
SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

- ☐ Regular ☐ Emergency (Attach Finding of Emergency) ☒ Certificate of Compliance
Other Regulatory Actions:
☐ Procedural and Organizational Change ☐ Editorial Correction ☐ Authority and Reference Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

- ☐ No ☒ Yes, if yes give date of previous filing March 16, 1984

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

- ☒ No ☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

- ☐ State Fire Marshal (Attach Approval) ☐ Building Standards Comm. (Attach Approval) ☐ Fair Political Practices Comm. (Include FPPC Approval Stamp) ☐ Department of Finance (Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

March 30, 1984

b. DATE OF ADOPTION OF REGULATION(S)

December 28, 1984

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

September 14-28, 1984

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

- ☒ No ☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

- a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective on _____ as required by statutes: (list) _____
c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)
☐ Request Attached
d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, prior to adoption of the following emergency regulations which were filed with the Secretary of State on August 30, 1984, and which became effective on August 31, 1984.

Manual of Policy and Procedures, Division 63, Chapters 040, 103, 402, 501, 502, 503, 504, 702, 801, and 805; Division 20 Chapter 300; Division 22 and Chapters 001, 202, 210, 220, 230, and 240 Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
63-103.21(g)	63-040.1 - .5	63-402.26 and .28
63-402.21 - .214	63-402.22 - .224	63-501.71 and .72
.214		
63-501.7	63-501.9	63-502.13
63-502.15 - .152	63-502.13 - .142	63-503.44 (all)
63-503.476	63-503.44 (all)	63-801.(all)
63-504.166(g) and .267(d)	63-702.3	63-805.1 - .33
63-702.3 - .54	63-801(all)	63-805.5 - .64
63-805.2 and .7	63-805.1 - .12	22-240.3
22-001.4, .5, .7, .8, and .13	20-300.1 - .53	
22-003.11	22-210.425	
22-200.1 and .2	22-240.11 and .15	
22-201.1 - .3		
22-202.1 - .311		
22-210.1 - .424		
22-220.1 - .51		
22-230.1 - .152		
22-240.1 - .3		

These regulations were presented at public hearing on May 16, 1984. As a result of the public hearing the following sections have been changed.

Amended

63-040.2-.3
63-402.214
63-502.14
63-503.443(b)
63-504.266(g)
63-801.11
63-801.213
63-801.221 - .224
63-801.411
63-801.413
63-801.441
63-801.441(c)
63-801.722
63-801.722(a)(3)
63-801.83
63-801.831
63-805.3
20-300.21
20-300.32
20-300.34



LINDA S. McMAHON
Director

12/28/84

Date

.1 Definition: Intentional Program Violation

For the purpose of this section, an intentional Program violation applies to the Food Stamp Program and is defined as having intentionally:

- .11 Made a false or misleading statement, or misrepresented, concealed, or withheld facts, or
- .12 Committed any act which constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons or ATPs.

.2 County Responsibilities

.21 Investigation and Referral

The CWD's Special Investigations Unit (SIU) shall be responsible for investigating any case of alleged intentional Program violation. The SIU may confer with the local prosecuting authority in establishing criteria for prioritizing cases to be assigned for investigation and prosecution. In those cases in which it appears that clear and convincing evidence exists to substantiate the allegation of intentional Program violation, the SIU shall file a request for a complaint with the prosecuting authority as provided in Section 20-007.3.

.22 Administrative Disqualification Hearing

Those cases in which the prosecuting authority has determined (a) that facts do not warrant prosecution, or (b) those cases previously referred for prosecution and declined, shall be returned to the CWD and the CWD shall initiate referral action for an administrative disqualification hearing through the SDSS in accordance with SDSS' Manual of Policies and Procedures, Division 22.

- .23 The CWD shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of the appropriate

jurisdiction, if the factual issues of the case arise out of the same or related circumstances.

.24 Notification of Disqualification Action

If the administrative disqualification hearing or the court finds that the household member committed intentional Program violation, the CWD shall mail an administrative disqualification notice, DFA 377.7A to the household member. Following an administrative hearing, the notice shall be sent prior to the disqualification action. The notice shall inform the household member of the decision, the reason for the decision, and the date the disqualification will take effect. The notice shall also advise the remaining household members of the allotment that they will receive during the disqualification period, or that they may reapply after the disqualification period ends. If the individual is no longer participating, the notice shall inform the individual that the period of disqualification will be deferred until the individual applies and is determined eligible for benefits. In addition, the CWD shall send the household a Repayment Notice (DFA 377.7B) and a Repayment Agreement (DFA 377.7C) for restitution as specified in SDSS' Manual of Policies and Procedures, Division 63, Section 63-801.43. The procedures for handling the income and resources of the disqualified member shall be in accordance with regulations in SDSS' Manual of Policies and Procedures, Division 63, Section 63-503.54.

.3 Disqualification Penalties

.31 Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to participate in the Food Stamp Program as follows:

- a. Six months for the first violation.
- b. Twelve months for the second violation.
- c. Permanently for the third violation.

.32 The disqualification penalties shall apply only to individuals disqualified for acts of intentional Program violation which occurred during a certification period after the household has been notified by the CWD of the new disqualification penalties. If the act of intentional Program violation which led to the

disqualification occurred prior to April 1, 1984 or prior to the household's notification of the disqualification penalties, the individual(s) shall be disqualified in accordance with the Food Stamp Program's disqualification penalty regulations in effect at the time of the individual's offense.

- .33 One or more intentional Program violations which occurred prior to the implementation of these penalties shall be considered as only one previous disqualification when determining the penalty to impose.
- .34 The CWD shall disqualify only the individual(s) found to have committed the intentional Program violation and not the entire household.
- .35 Once a disqualification penalty has been imposed against a currently participating household member, the period of disqualification shall continue uninterrupted until completed, regardless of the eligibility of the disqualified member's household.
- .36 If the individual is not eligible for the Food Stamp Program at the time the disqualification period is to begin, the period shall be postponed until the person applies for and is determined eligible for benefits.
- .37 The disqualification of an individual for intentional Program violation in one political jurisdiction shall be valid in another.
- .38 The same act of intentional Program violation repeated over a period of time shall not be separated so that separate penalties can be imposed.
- .39 If the accused household member is found guilty of an intentional Program violation by the court, and the court fails to impose a disqualification penalty, the county shall impose a disqualification period in accordance with the penalties specified in this section, unless contrary to the court order.

.4 Time Frames for Imposition of Disqualification Penalties

.41 By Administrative Disqualification Hearing

If the hearing authority rules that the household member has committed an intentional Program violation, the CWD shall disqualify the household member beginning with the first month following the date the household member receives the DFA 377.7A.

.411 Five days from the date the notice is mailed shall be considered sufficient time for the written notice to have been received by the household, provided it has not been returned as undeliverable by the post office.

.42 By Court Order

If disqualification is ordered by a court of appropriate jurisdiction, but the date for initiating the disqualification period is not specified, the CWD shall initiate the disqualification within 45 days of the date the disqualification was ordered.

.5 Reporting Requirements

.51 The CWD shall report to FNS information concerning individuals disqualified for intentional Program violation, within 30 days of the date the disqualification took effect, or would have taken effect for a currently ineligible individual whose disqualification is pending future eligibility. This information shall be reported on the Disqualified Recipient Report (FNS 524).

.52 The CWD shall establish and maintain a food stamp disqualification file containing all information received from SDSS concerning individuals who have been disqualified in that county or in another political jurisdiction. Such information shall be made immediately available to food stamp eligibility staff for the following purposes:

.521 To determine eligibility of individual Food Stamp Program applicants prior to food stamp certification in cases where a welfare agency has reason to believe a household member is subject to disqualification in another jurisdiction.

.522 To ascertain the appropriate penalty to impose based on past disqualification in a case under consideration.

.53 CWDs shall submit revisions to original disqualification reports in the following situations:

a. On those cases where the disqualification was pending future eligibility, and the individual once again becomes eligible and the disqualification penalty is imposed.

- b. In cases where the disqualification is reversed by a court of appropriate jurisdiction.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901, 7 CFR Section 273.16(a), (b), (c), (e), and (i), and 7 CFR Section 272.1(g).

22-001 DEFINITIONS (Continued)

22-001

- 4 Authorized Representative - An individual or organization that has been authorized by the claimant pursuant to Sections 22-010 and 22-101 to act for and represent the claimant in any and all aspects of the state hearing or administrative disqualification hearing. If the claimant has designated an authorized representative, any references to claimant shall also apply to the authorized representative unless otherwise stated. The claimant need not designate an authorized representative, and may represent him/herself at all stages of the hearing process. (Also see Sections 22-010 and 22-101.)
- 5 Chief Referee - The person designated and employed by the Director of the Department of Social Services and charged with the administration of state hearings and administrative disqualification hearings.

22-001 DEFINITIONS (Continued)

22-001

- 7 County or CWD - For purposes of this division, "county" or "CWD" generally refers to the county welfare department. Any references to "county" or "CWD" however, may also refer to any agency or contractor whose actions may be subject to a state hearing.
- 8 County or CWD Representative - An employee who is assigned the major responsibility for preparing and/or presenting a hearing case on behalf of the CWD. (See Section 22-023.12.)

22-001 DEFINITIONS (Continued)

22-001

- 13 Hearing Officer - A person designated by the Director and thereafter assigned by the Chief Referee to conduct state hearings and administrative disqualification hearings and propose decisions.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, and 7 CFR Sections 273.16(a) and (e).

•1 (Continued)

- 11 There is no right to a state hearing regarding a food stamp administrative disqualification, unless the issue is the CWD's method of implementing a food stamp administrative disqualification hearing decision (See Division 22, Chapter 22-200, Division 20, Chapter 20-300, and Division 63, Chapter 63-805).

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, 7 CFR 273.16(a), and (e).

22-200 ADMINISTRATIVE DISQUALIFICATION
HEARINGS - GENERAL

22-200

- 1 The regulations in this chapter shall apply to hearings resulting from a CWD's determination, supported by documentation, that a food stamp administrative disqualification for an intentional Program violation is appropriate and in accordance with SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.
- 2 Administrative disqualification hearings are distinct from state hearings discussed in Chapter 22-000.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.16(e).

- 1 An administrative disqualification hearing shall be initiated when a CWD informs the Office of the Chief Referee that clear and convincing documented evidence in the CWD's possession indicates that an administrative disqualification is appropriate.
- 11 The Department shall then assume responsibility for the overall administration of the disqualification hearing process and the conduct of each hearing.
- 12 The CWD shall remain responsible for:
 - 121 Investigating the case and assisting the respondent prior to the hearing;
 - 122 Presenting the CWD's position during the hearing; and
 - 123 Complying with the hearing decision.
- 2 Definitions
 - (a) The definitions in Section 22-001 shall apply to this chapter. The following additional definitions, in alphabetical order, shall apply wherever the terms are used in this chapter:
 - (1) Administrative Disqualification Decision - Means the written decision issued by the Hearing Officer after an administrative disqualification hearing.
 - (2) Notice of Hearing - Means the notification sent to the respondent and the CWD by the Department which initiates an administrative disqualification hearing (see Section 22-202.3).
 - (3) Respondent - Means the household member(s) who the CWD has determined may be subject to administrative disqualification. To the extent the provisions of Chapter 22-000 relating to state hearings apply to administrative disqualification hearings, all references to "claimant" in such regulations shall be deemed to refer to "respondent" for purposes of the administrative disqualification hearing.
- 3 Procedures Governing State Hearings Also Applicable to Administrative Disqualification Hearings

(a) The following provisions of Chapter 22-000 shall be applicable to administrative disqualification hearings:

- (1) Section 22-002 relating to determination of time limit;
- (2) Section 22-010 relating to authorized representatives;
- (3) Section 22-023.12 relating to assignment of county representatives;
- (4) Section 22-023.2 relating to duties of county representatives prior to and at the hearing;
- (5) Section 22-025 relating to situations where the hearing is held in a county other than the responsible county;
- (6) Section 22-045.1 and .2 relating to the time and place of the hearing;
- (7) Section 22-049 relating to general rules and procedures at the hearing;
- (8) Section 22-050 relating to evidence;
- (9) Section 22-051 relating to the examination of records and issuance of subpoenas;
- (10) Section 22-052 relating to witness fees and mileage;
- (11) Section 22-053.2 relating to continuances for additional evidence;
- (12) Section 22-055 relating to disqualification of hearing officers;
- (13) Section 22-059 relating to communications after the hearing.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 10950 and 18904, and 7 CFR 273.16(c) and (e).

- .1 When the CWD determines, based on clear and convincing evidence, that a household member(s) is subject to disqualification from the Food Stamp Program because of a suspected intentional Program violation and believes the household member(s) should be disqualified in accordance with Division 20, Chapter 20-300 the CWD shall:
 - .11 Notify the Chief Referee in writing; and,
 - .12 Request that an administrative disqualification hearing be scheduled.
 - .121 The notification shall set forth the charges against the respondent and contain a summary of the evidence.
- .2 Upon receipt of the notification described in Section 22-202.1, the Chief Referee shall either:
 - .21 Schedule an administrative disqualification hearing.
 - .22 Refer the notification to the Department for review.
 - .221 If the Department determines that there is insufficient evidence described to support the charges, the CWD shall be so notified.
 - .222 If the Department determines that there is sufficient evidence, it shall return the notification to the Chief Referee and the Chief Referee shall schedule an administrative disqualification hearing.
- .3 Notice of Hearing
 - .31 The Chief Referee shall provide written notice to the respondent, with a copy to the CWD at least 30 days in advance of the date of the hearing or of a consolidated hearing.
 - .311 The notice shall be mailed "Certified Mail - Return Receipt Requested" and shall contain, at a minimum:
 - (a) The date, time, and place of the hearing and a notice that the respondent is entitled to a postponement of the scheduled hearing for up to 30 days provided that the

request for postponement is made at least 10 days in advance of the date of the scheduled hearing.

- (b) The charges against the respondent.
- (c) A summary of the evidence, and how and where the evidence can be examined.
- (d) A warning that the decision will be based solely on information provided by the CWD if the respondent fails to appear at the hearing.
- (e) A warning that an individual found to have committed an intentional Program violation shall be ineligible to participate in the Food Stamp Program for six months for the first violation, 12 months for the second violation, and permanently for the third violation and a statement of which penalty the CWD believes is applicable to the respondent's case.
- (f) A listing of the respondent's rights as contained in Section 22-049.7.
- (g) A statement that the hearing does not preclude the County, State or Federal government from prosecuting the respondent for the intentional Program violation in a civil or criminal court action, or from collecting an overissuance related to the alleged intentional Program violation.
- (h) A statement that the respondent can call the CWD to get the name and phone number (if available) of someone who can give free legal advice. If free legal advice is not available, the CWD shall provide when called, the phone number of a lawyer referral service or the local bar association.
- (i) A copy of this chapter and the applicable provisions of Chapter 22-000

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: • Welfare and Institutions Code Section 18901 and 7 CFR 273.16(e).

- 1 The hearing shall be conducted pursuant to the applicable provisions of Chapter 22-000.

- 11 The hearing officer shall advise the respondent that he/she may refuse to answer questions during the hearing.

- 2 Postponements

At the request of the respondent, the hearing may be postponed for a total period of up to 30 days provided that the request for postponement is made at least 10 days in advance of the date of the scheduled hearing.

- 21 The time limit for rendering a decision on the hearing may be extended for the length of time the hearing is postponed.

- 3 Cancellation of Hearing

If after a hearing has been scheduled, the CWD finds that further evidence indicates that an administrative disqualification is no longer appropriate, it shall notify the Chief Referee.

- 31 The Chief Referee shall then notify the respondent and the CWD that the administrative disqualification hearing is cancelled.

- 4 Respondent Fails to Attend Hearing

- 41 If the respondent cannot be located or fails to appear at a hearing, the hearing shall be conducted in the absence of the respondent.

- 411 The hearing officer shall review the evidence presented by the county and prepare a decision based upon that evidence.

- 42 If the respondent establishes good cause for failure to attend the hearing, a new hearing shall be scheduled.

- 421 The criteria for good cause shall be the criteria set forth in Section 22-053.14.

- 422 The respondent shall establish good cause for failure to attend the hearing no later than 10 days after receiving the hearing decision.

•423 The respondent shall establish good cause by contacting the Chief Referee by letter or by telephone.

(a) The Chief Referee shall have authority to require that the respondent submit verification of good cause.

•424 The respondent and the CWD shall be notified in writing of the good cause determination and the determination shall be placed into the hearing record.

•425 If good cause is established, the hearing decision shall have no affect on the respondent's status. Nor shall it affect the household's continuing benefit, except as provided in Section 63-805.2.

(a) Pending the rehearing decision, any benefits lost to the household as a result of the rescinded decision shall be restored in accordance with Section 63-802.1.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18902, and 7 CFR 273.16(e)(2)(iv) and 7 CFR 273.16(e)(3)(E).

- .1 After the hearing has been closed, the hearing officer shall prepare a written decision.
- .2 The decision shall include:
 - .21 A statement of facts.
 - .22 The statutes and regulations involved.
 - .23 The reasoning which supports the decision.
 - .24 Responses to arguments raised by the respondent.
- .3 Any determination of an intentional Program violation which is made in such a decision shall be based upon clear and convincing evidence.
- .4 The hearing officer's proposed decision shall be subject to the review of the Chief Referee and the Director.
 - .41 The Chief Referee or Director shall have the authority to reject the proposed decision of the hearing officer and prepare a separate decision based upon the record in the case or to order an additional hearing.
 - .42 Any such decision shall be subject to the provisions of Section 22-220.2.
- .5 A copy of the hearing decision shall be mailed to the respondent and to the CWD.
 - .51 If the decision is adverse to the respondent, the decision shall notify the respondent of the right to judicial review, and shall advise the respondent that, if the court decides the case in his/her favor, he/she shall be entitled to reasonable attorney's fees and the cost of suit.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 10958 and 18904, and 7 CFR 273.16(e).

22-230 DISPOSITION OF ADMINISTRATIVE
DISQUALIFICATION HEARINGS

22-230

- .1 All administrative disqualification hearing decisions shall be mailed within 90 days of the date of the notice of hearing described in Section 22-202.3.
- .11 If the decision results in upholding the disqualification of the respondent, the CWD shall initiate the administrative action in accordance with SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.
- .12 If the hearing is postponed (see Section 22-210.2), the 90-day period shall be extended by the period of time that the case is postponed.
- .13 If a new hearing is scheduled pursuant to Section 22-210.42, a new 90-day period shall commence from the date the respondent and CWD are notified of the new hearing.
- .14 If a hearing is continued or postponed, (see Section 22-053) the respondent shall be given a written notice that explains that the time limit for rendering a decision will be extended by the same number of days as the hearing is postponed or continued.
- .15 An administrative disqualification decision is not subject to the provisions of Section 22-065.
 - .151 There is no right to a rehearing regarding a finding of intentional Program violation.
 - .152 A decision finding intentional Program violation shall inform the respondent concerning the right to judicial review.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901 and 18904, and 7 CFR 273.16(e).

22-240 CONSOLIDATION OF ADMINISTRATIVE
DISQUALIFICATION HEARING WITH A STATE HEARING

22-240

- .1 At his/her discretion or upon the request of the respondent or the CWD, the Chief Referee shall have the authority to consolidate requests for a state hearing with an administrative disqualification hearing.
 - .11 If the factual issues arise out of the same, or related circumstances and the household receives prior notice (as required in Section 22-202.3) then the hearings will be combined. However, the respondent, upon request, shall be allowed to waive the 30-day advance notice when the hearing requests are consolidated.
 - .12 In such cases, although only one actual hearing may be held, the procedures governing the administrative disqualification hearing aspect of the case and the state hearing aspect shall be separately identified and followed.
 - .13 The hearing officer shall have the authority to:
 - .131 Sever the proceedings and hold each hearing separately.
 - .132 Postpone or continue the state hearing and not postpone or continue the administrative disqualification hearing or vice versa.
 - .14 If a state hearing case is consolidated under this section, the time limits for its disposition, shall be the same as for the administrative disqualification hearing, (see Section 22-230).
 - .15 If a state hearing case is consolidated under this section, for the purpose of settling the amount of the claim at the same time as determining whether or not an intentional Program violation has occurred, the respondent shall lose the right to a subsequent state hearing on the amount of the claim.
- .2 A pending administrative disqualification hearing shall not affect the individual's or household's right to be certified or to participate in the Food Stamp Program.
- .3 In the Food Stamp Program, when the determination of intentional Program violation is reversed by the court, the CWD shall reinstate the individual if the household is eligible in accordance with procedures in SDSS' Manual of Policies and Procedures, Division 63, Section 63-805.2.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18902, and 18904, and 7 CFR Section 273.16(e).

Sections 63-103, 63-402, 63-501, 63-502, 63-503, 63-504, 63-702, and 63-805 and Division 22, Chapters 22-200, 22-201, 22-202, 22-210, 22-220, 22-230, and 22-240 as amended, and Sections 63-502.13 and .14, 63-503.44, 63-801, 63-805.1 and Division 20, Chapter 300 as adopted herein, shall become effective April 1, 1984 and implemented as follows.

- .1 Effective April 1, 1984, the revised and newly adopted provisions shall be applied to all new applications.
- .2 Currently certified cases shall be converted to the revised and newly adopted provisions on handling the income and resources of individuals disqualified for intentional Program violations, and recovery of household overissuance claims by the time of recertification. If the CWD has enough information in the case file that will not require the household to appear to obtain further information, the CWD may convert prior to the recertification period.
- .3 The provisions in Division 20, Chapter 20-300, and Section 63-805.1 on Program disqualification for intentional Program violations shall be applied to certified households from the effective date of these regulations. The disqualification penalties shall apply only to individuals for acts of intentional Program violation which occurred after the household has been notified of the new disqualification penalties.
- .4 The reporting requirements in Division 20, Section 20-300.5 shall become effective April 1, 1984. CWDs shall by no later than June 1, 1984, report to Food and Nutrition Service/Western Regional Office information required to complete the Disqualified Recipient Report Form (FNS 524) for individuals disqualified by an Administrative Disqualification hearing or a court of appropriate jurisdiction under the fraud disqualification regulations in effect prior to the effective date of these regulations.
- .5 The submission requirements for Form DFA 209, Status of Claims Against Households, as provided in Section 63-801.82 shall be implemented beginning with the end of the April-June 30, 1984 quarter.

Authority: Welfare and Institutions Code Sections 10553,
18902, and 18904.

Reference: Welfare and Institutions Code Section 18904,
Government Code Section 11346.1(d), and 7 CFR
272.1.

.2 State Agency Delegations to County Agencies (Continued)

.21 (Continued)

- g. Determining the amount of, and setting, adjusting, compromising, or denying all or part of any household overissuance claim which results from intentional Program violation, inadvertent household or CWD administrative error, subject to the standards in Section 63-801.

Authority: Welfare and Institutions Code Section 10553 and 18904.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.16.

•2 Nonhousehold and Excluded Household Members**•21 Nonhousehold Members**

The following individuals residing with a household shall be considered nonhousehold members in determining the household's eligibility or allotment. Their income and resources shall not be considered available to the household except as otherwise provided in Section 63-503.45. Nonhousehold members who are otherwise eligible may participate in the Food Stamp Program as separate households.

•211 Roomers

Individuals to whom a household furnishes lodging, but not meals, for compensation.

•212 Live-in Attendants

Individuals who reside with a household to provide medical, housekeeping, child care, or other similar personal services.

•213 SSI Recipients

No person receiving Supplemental Security Income/State Supplementary Program (SSI/SSP) payments is eligible to receive food stamp benefits. Under the provisions of PL 95-458: 1) most California SSI/SSP recipients receive as part of their SSI/SSP benefit a cash amount in lieu of food stamp benefits; 2) all SSI/SSP recipients in California are ineligible to receive food stamps. A person must actually receive, not merely have applied for, SSI/SSP benefits to be determined ineligible for the Food Stamp Program. If the CWD provides payments at least equal to the level of SSI/SSP benefits to persons who have been determined eligible for SSI/SSP awaiting receipt of SSI/SSP benefits, receipt of these substitute payments will terminate Food Stamp Program eligibility. Once receiving SSI/SSP benefits, the person will remain ineligible for food stamp benefits until actually terminated from the SSI/SSP Program; periods of nonreceipt or suspension of SSI/SSP payments do not restore food stamp eligibility.

.214 Students

Persons enrolled in an institution of higher education who are ineligible because they fail to meet the eligibility criteria set forth in Section 63-406.2.

.215 Others

Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household. For example, if the applicant household shares living quarters with another family to save on rent but does not purchase and prepare food together with that family, the members of the other family are not members of the applicant household. Also, an individual or family which, because of a temporary loss of income, was forced to move into the home of friends or relatives. Under such circumstances, that person or family which customarily purchases food and prepares meals separately, from the household that took them in could apply as a separate household.

.22 Excluded Household Members

The following individuals residing with a household shall be excluded from the household when determining the household's size for the purpose of assigning a monthly allotment to the household or of comparing the household's monthly income with the income eligibility standards. However, the income and resources of excluded household member(s) shall be considered available to the remaining household members in accordance with Section 63-503.44. Excluded household members shall not participate in the Food Stamp Program as separate households.

.221 Ineligible Aliens

Individuals who do not meet the citizenship or eligible alien status in Section 63-403.

.222 SSN Disqualified

Individuals disqualified for refusal or failure, without good cause, to provide or obtain an SSN as required in Section 63-404.4.

.223 Intentional Program Violation Disqualified

Individuals disqualified for committing act(s) of intentional Program violation, as set forth in Section 63-805.

•224 Workfare Sanctioned

Individuals sanctioned by a CWD while a participating member of a household disqualified for failure to comply with the CWD's Workfare Program requirements.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Sections 273.1(b), 273.11(c), 273.22(f)(6)(i), 273.8(j), and 273.16(b).

.7 Resources of Nonhousehold Members

The resources of nonhousehold members, as defined in Section 63-402.21, shall not be counted as available to the household.

.9 Resources of Excluded Household Members

The resources of excluded household members, as defined in Section 63-402.22, and as provided in Section 63-503.44 shall be counted as available to the remaining household members.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Section 273.8(j).

.1 Income Definition (Continued)

- .13** The earned or unearned income of the following individuals shall be counted in its entirety as income to the remaining household members.
 - .131** Individuals disqualified from household participation for committing intentional Program violations as provided in SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.
 - .132** Individuals sanctioned by a CWD while a participating member of a household disqualified for failure to comply with the CWD's Workfare Program requirements.
- .14** The earned or unearned income of the following disqualified individuals shall be counted as income to the remaining household members, less a pro rata share for each disqualified and/or ineligible individual. Procedures for calculating this pro rata share shall be in accordance with Section 63-503.442.
 - .141** Individuals disqualified from households for failing to comply with the SSN requirements in accordance with Section 63-404.4.
 - .142** Individuals disqualified from households for being an ineligible alien in accordance with Section 63-403.2.
- .15** Income shall not include the following:
 - .151** Monies withheld from an assistance payment, earned income, or other income source, or monies received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source, provided that the overpayment was not excludable under Section 63-502.2.
 - .152** Child support payments received by AFDC recipients which must be transferred to the agency administering Title IV-D of the Social Security Act, as amended, to maintain AFDC eligibility.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR, Section 273.11(c)

•4 Households with Special Circumstances (Continued)

•44 Treatment of Income and Resources of Excluded Members

During the period of time that excluded household members, as specified in Sections 63-402.221, .222, .223, and .224, are ineligible to participate, the eligibility and benefit of any remaining household members shall be determined in accordance with Sections 63-503.441, .442, and .443.

•441 Members Excluded for Intentional Program Violation
Disqualification or Workfare Sanction

The eligibility and allotment of any remaining household members of a household containing individuals excluded because of disqualification for intentional Program violation or imposition of a sanction while they were residing in a Workfare Program project area and participating as a member of a household disqualified for failure to comply with the workfare requirements, shall be determined as follows:

(a) Income, Resources, and Deductible Expenses

The income and resources of the excluded household member(s) shall continue to be counted in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, and excess shelter deductions shall continue to apply to the remaining household members.

(b) Eligibility and Benefit Level

The excluded member shall not be included when determining the household's size for the purposes of:

- (1) Assigning a monthly allotment to the household;
- (2) Comparing the household's monthly income with the income eligibility standards; or

- (3) Comparing the household's resources with the resource eligibility limits. The CWD shall ensure that no household's coupon allotment is increased as a result of the exclusion of one or more household members.

.442 Members Excluded for Other Causes

The eligibility and monthly allotment of any remaining household members of a household containing individuals excluded for being ineligible aliens or because of disqualification for refusal or failure without good cause to obtain or provide an SSN shall be determined as follows:

(a) Resources

The resources of such excluded members shall continue to count in their entirety to the remaining household members.

(b) Income

A pro rata share of the income of such excluded members shall be counted as income to the remaining members. This pro rata share is calculated by first subtracting the allowable exclusions from the excluded member's income and dividing the remaining income evenly among the household members, including the excluded members. All, but the excluded members' share is counted as income for the remaining household members.

(c) Deductible Expenses

The earned income deduction shall apply to the prorated income earned by such excluded members which is attributed to the household. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the excluded members shall be divided evenly among the household's members including the excluded members. All but the excluded members' share is counted as a deductible shelter expense for the remaining household members. Proration of

utility expenses shall be applied when actual amounts are claimed. The standard utility allowance (SUA) shall also be prorated, if the household is using the SUA. (See Section 63-502.361.)

(d) Eligibility and Benefit Level

Such excluded members shall not be included when determining their households' sizes for the purposes of:

- (1) Assigning a benefit level to the household;
- (2) Comparing the household's monthly income with the income eligibility standards; or
- (3) Comparing the household's resources with the resource eligibility limits.

•443 Reduction or Termination of Benefits Within the Certification Period

Whenever an individual is excluded within the household's certification period, the CWD shall determine the eligibility or ineligibility of the remaining household members.

(a) Members Excluded for Intentional Program Violation Disqualification

If a household's allotment is reduced or terminated within the certification period because one of its members was excluded because of disqualification for intentional Program violation, the CWD shall notify the remaining members of their eligibility and monthly allotment at the same time the excluded member is notified of his or her disqualification. The household is not entitled to a timely notice but may request a state hearing to contest the reduction or termination of benefits, unless the household has already had a state hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the state hearing.

(b) Members Excluded for Other Causes

If a household's allotment is reduced or terminated within the certification period because one or more of its members is an ineligible alien or was sanctioned while they were participating as a household member in a Workfare Program project area and the household was disqualified for failure to comply with the Workfare Program requirements, or was disqualified for refusal or for failure without good cause to obtain or provide an SSN, the CWD shall issue a notice of change (DFA 377.4), in accordance with Section 63-504.267(d) which shall inform the household of the exclusion, the reason for the exclusion, the eligibility and monthly allotment of the remaining members and the actions the household must take to end the disqualification.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Sections 273.11(c), 273.13(b), and 273.16(e).

•4 Households with Special Circumstances (Continued)

•47 Residents of Drug/Alcohol Treatment and Rehabilitation Programs

- 476 The institution shall be responsible for any intentional Program violation which it knowingly commits in the certification of center residents. As an authorized representative, the institution shall be knowledgeable about household circumstances and should carefully review those circumstances with residents prior to applying on their behalf. The institution shall be strictly liable for all losses or misuse of food coupons held on behalf of resident households and for all overissuances which occur while the households are residents of the treatment center.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901, and 7 CFR Sections 273.11(e) and 273.16(e).

•2 Notices of Action (Continued)

•26 Notice of Change (DFA 377.4) (Continued)

•266 Exemptions from Providing Notice (Continued)

No notice shall be required when: (Continued)

- (g) Converting a household from voluntary repayment to allotment reduction as a result of failure to make agreed to repayments, as provided in Section 63-801.722.

•267 Exemptions from Providing Timely Notice (Continued)

The CWD shall provide an adequate only notice at the time of the allotment change when: (Continued)

- (d) A household member is disqualified for intentional Program violation, in accordance with SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300, or the allotments of the remaining household members are reduced or terminated to reflect the disqualification of that household member. The notice requirements for individuals or households affected by intentional Program violation disqualifications shall be in accordance with SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR Section 273.13(b).

.3 Cash Losses

CWDs are liable for cash losses when monies collected from overissuance claims have been lost, stolen, or otherwise not accounted for in accordance with the provisions in Section 63-801.8.

.4 Liability Check List**.41 Coupons**

.411 Lost, stolen, embezzled coupons and unexplained shortages - see Section 63-705.72.

.412 Coupons in possession of issuance agent - see Section 63-603.19.

.5 Photo ID

.51 CWDs shall include in any contract or agreement with an issuing agent a provision establishing the agent's strict liability to SDSS for the face value of coupons issued in any ATP transaction when:

.511 the ATP is found to have been stolen or otherwise not received by the household and

.512 the CWD or issuing agent's cashier has not recorded the serial number of the photo ID card on the ATP, or the person presenting the ATP is not pictured on the ID card as specified in Sections 63-602.383 and .462.

.52 CWDs shall be strictly liable for losses by CWD issuing agents where reconciliation shows noncompliance (see Section 63-702.41) with photo ID requirements.

.53 The strict liability referred to in Section 63-702.41 shall apply (to counties or parts of counties) notwithstanding the fact that FNS previously granted waiver(s) of provisions of the photo ID requirements.

.54 In CWDs using an HIR system the strict liabilities conditions of Sections 63-702.51, .52, and .53 apply in a like manner.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18902, 18904, and 7 CFR Section 276.2(c).

Amend Sections 63-801.213, .221 - .224, .411, .413, .711, .83, and .831 to read:

63-801 CLAIMS AGAINST HOUSEHOLDS

63-801

.1 Establishing Claims Against Households and/or Against Sponsors of Alien Households

The CWD shall establish a claim, in accordance with Section 63-801.2, against any household that has received more food stamp benefits than it is entitled to receive except as specified in Section 63-801.12. Any sponsor of an alien and the sponsored alien shall be held jointly and individually liable for repayment of any overissuance of food stamp benefits that results from incorrect information provided by the sponsor. In such cases, the CWD shall establish a claim against the sponsor or the alien household as provided in Section 63-801.13.

.11 Time Frame for Establishing Inadvertent Household Error, Administrative Error, and Intentional Program Violation Claims

The CWD shall take action, within the time frames of this section, to establish a claim against any household that received an overissuance due to an inadvertent household or administrative error. Intentional Program violation claims shall be established and handled in accordance with Section 63-801.23. The CWD shall take action on inadvertent household and administrative error claims for which up to 12 months have elapsed between the month the overissuance occurred and the month the CWD determined by computation that an overissuance occurred irrespective of the date the claim determination (Form DFA 842) was completed.

.12 No claim shall be established if an overissuance occurred as a result of the following:

.121 The CWD failed to ensure that a household fulfilled the following procedural requirements:

- (a) Signed the application form;
- (b) Completed a current work registration form;
- (c) Was certified in the correct county.

.122 The household transacted, but did not alter an expired ATP.

.13 Claims Against Alien Households and Sponsors of Alien Households

.131 The CWD shall hold the alien's household solely liable for repayment of an overissuance in benefits, and establish a claim against the household, if the CWD determines that the sponsor had good cause or was not at fault for providing the incorrect information that resulted in the overissuance.

.132 If the CWD determines that the sponsor did not have good cause, or was at fault, in accordance with Section 63-801.413, the CWD shall decide whether to establish a claim for the overissuance against either the sponsor or the sponsored alien's household, or both. The CWD shall choose to establish claims against both parties at the same time or to establish a claim against the party it deems most likely to repay first. If a claim is established against the sponsor first, the CWD shall ensure that a claim is established against the household whenever the sponsor fails to respond to the CWD's Repayment Notice (DFA 377.7B) within 30 days of receipt. The CWD shall return to the sponsor and/or the household any amounts repaid in excess of the total amount of the claim (Claim Determination Worksheet, DFA 842).

.2 Types of Claims

The CWD shall categorize and account for all claims against households as inadvertent household error claims, administrative error claims, or intentional Program violation claims.

.21 Inadvertent Household Error Claims

A claim shall be handled as an inadvertent household error claim if the overissuance was caused by a misunderstanding or unintended error on the part of the household or the sponsor of an alien household. Instances of inadvertent household error which may result in a claim include, but are not limited to the following:

- .211 The household, or the sponsor unintentionally failed to provide the CWD with correct or complete information.
- .212 The household unintentionally failed to report to the CWD changes in household circumstances or the circumstances of its sponsor.
- .213 The household unintentionally received benefits or more benefits than it was entitled to receive pending a state hearing decision because the household requested a continuation of benefits based on the mistaken belief that it was entitled to such benefits.

.22 Administrative Error Claims

A claim shall be handled as an administrative error claim if the overissuance was caused by the action or inaction of any agency administering the Food Stamp Program. Instances of administrative error which may result in a claim include, but are not limited to the following:

- .221 The CWD agency failed to take prompt action on a change reported by the household.
- .222 The CWD agency incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.
- .223 The CWD agency incorrectly issued duplicate ATPs which were subsequently transacted by the household.
- .224 The CWD agency continued to provide a household with food stamp allotments after its certification period had expired without benefit of a reapplication determination.

.23 Intentional Program Violation Claims

- .231 A claim shall be handled as an intentional Program violation claim only if an administrative disqualification hearing official or a court of appropriate jurisdiction has determined that a household member or the sponsor had committed an intentional Program violation, as defined in Section 63-801.232. Prior to a determination of intentional Program violation the claim against

the household shall be established and handled as an inadvertent household error claim.

.232 An act committing an intentional Program violation is defined as having intentionally:

- (a) Made a false or misleading statement, or misrepresented, concealed, or withheld facts, or
- (b) Committed any act which constitutes a violation of the Food Stamp Act, the Food Stamp Program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons or ATPs.

.3 Calculating the Amount of Claims

.31 Inadvertent Household and Administrative Error Claims

.311 For each month that a household received an overissuance due to an inadvertent household or administrative error, the CWD shall determine the correct amount of food stamp benefits the household was entitled to receive. The CWD shall calculate the amount of the overissuance which occurred during the 12 months preceding the date the overissuance was discovered. In cases involving reported changes, the CWD shall determine the month the overissuance initially occurred as follows:

- (a) If, due to an inadvertent error on the part of the household, the household failed to report a change in its circumstances within the time frames required in Section 63-505, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been timely reported. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.
- (b) For monthly reporting households, a claim shall be established when the household fails to report a change on the CA 7 by the

extended filing date for the appropriate report month. For nonmonthly reporting households, a claim shall be established if the household fails to report a change within 10 days of the date the change became known.

- (c) If the household timely reported a change, but the CWD did not act on the change within the required time frames, the first month affected by the CWD's failure to act shall be the first month the CWD would have made the change effective had it timely acted. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.

- .312 If the household received a larger allotment than it was entitled to receive, the CWD shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.
- .313 After calculating the amount of the inadvertent household or administrative error claim, the CWD shall offset the amount of the claim against any amounts which have not yet been restored to the household as a restoration of lost benefits in accordance with Section 63-802.54. The CWD shall then initiate collection action for the remaining balance, if any.

.32 Intentional Program Violation Claims

- .321 For each month that a household received an overissuance due to an act of intentional Program violation, the CWD shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the intentional Program violation claim shall be calculated back to the month the act of intentional Program violation occurred, regardless of the length of time that elapsed until the determination of intentional Program violation was made. However, the CWD shall not include in its calculation any amount of the overissuance which occurred in a month more than six years from the

date the overissuance was discovered or prior to March 1, 1979. If the household member is determined to have committed intentional Program violation by intentionally failing to report a change in its household's circumstances, the first month affected by the household's failure to report shall be the first month in which the change would have been effective had it been reported. However, in no event shall the CWD determine as the first month in which the change would have been effective any month later than two months from the month in which the change in household circumstances occurred.

.322 If the household received a larger allotment than it was entitled to receive, the CWD shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.

.323 Once the amount of the intentional Program violation claim is established, the CWD shall offset the claim against any amount of lost benefits that have not been restored to the household as lost benefits in accordance with Section 63-802.54.

.4 Collecting Claims Against Households and Sponsors of Alien Households

.41 Criteria for Initiating Collection Action on Inadvertent Household and Administrative Error Claims

.411 CWDs shall initiate collection action against the household or the sponsor for all inadvertent household error claims, or the household for all administrative error claims or against the sponsor in accordance with Section 63-801.413, unless the claim is collected through offset or one of the following conditions apply:

- (a) The total amount of the claim is less than \$35, and the claim cannot be recovered by reducing the household's allotment.
- (b) The CWD has documentation which shows that the household or the sponsor of an alien household cannot be located.

.412 The CWD may postpone collection action on inadvertent household error claims in cases where an overissuance is being referred for possible legal prosecution or for administrative disqualification, and the CWD determines that collection action will prejudice the case.

.413 Prior to initiating collection action against the household of a sponsored alien for repayment of an overissuance caused by incorrect information having been provided concerning the alien's sponsor or sponsor's spouse, the CWD shall determine whether such incorrect information was provided due to inadvertent error or intentional Program violation on the part of the alien or the alien's sponsor. The CWD shall inform the alien's sponsor that neither the sponsor nor his/her spouse ~~will~~ shall be held responsible for repayment of the overissuance if the sponsor can demonstrate to the satisfaction of the CWD that he/she had good cause or was not at fault for the incorrect information having been provided to the CWD.

(a) A sponsor will be without fault or have good cause for not providing correct information only when the sponsor has met all of his/her responsibilities in providing correct information, but the alien has not.

(b) A sponsor shall not be held at fault for a CWD administrative error.

.42 Criteria for Initiating Collection Action on Intentional Program Violation Claims

If an administrative disqualification hearing official or a court of appropriate jurisdiction finds that a household member or the sponsor of an alien household member committed intentional Program violation, the CWD shall initiate collection action against the individual's household or the sponsor of the alien household member. In addition, to the extent possible, the CWD shall make a personal contact with the household and/or its sponsor.

.421 The CWD shall initiate such collection unless:

(a) the household has repaid the overissuance already.

- (b) the CWD has documentation which shows the household (and its sponsor, if an alien household), cannot be located, or,
- (c) the CWD determines that collection action will prejudice the case against a household member referred for legal prosecution.

•422 The CWD shall initiate collection action for an unpaid or partially paid claim even if collection action was previously initiated against the household while the claim was being handled as an inadvertent household error claim. In cases where a household member was found guilty of intentional Program violation by a court, the CWD shall request that the matter of restitution be brought before the court or addressed in the agreement reached between the prosecutor and accused individual.

•43 Initiating Collection on Claims

•431 CWDs shall initiate collection action by providing the household or the sponsor of an alien household with a Repayment Notice (DFA 377.7B) which informs the household or its sponsor of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household or its sponsor may pay the claim, and the household's right to a state hearing if the household disagrees with the amount of the claim. Additionally, the notice shall state that if the household has already had a state hearing on the amount of the claim as a result of a consolidation of the administrative disqualification hearing with the state hearing, the household has no right to another state hearing on the amount of the claim. If there is an individual or organization available that provides free legal representation, the DFA 377.7B shall also advise the household of the availability of the services.

- (a) For inadvertent household error and intentional Program violation claims, the household, or the sponsor shall also be informed of the length of time the household has to decide which method of repayment it will choose and inform the CWD of its decision, and of the fact that the household's allotment will be reduced if

the household fails to agree to make restitution.

(b) For administrative error claims, the household shall also be informed of the availability of allotment reduction as a method of repayment if the household prefers to use this method.

(c) In addition, any household or sponsor against which the CWD has initiated collection action shall be informed of their right to request renegotiation of any repayment schedule to which the household or the sponsor has agreed should the economic circumstances of the household or the sponsor undergo a change.

(1) A change in economic circumstances shall include, but not be limited to, changes in income, resources, or expenses. A change in household allotment shall not constitute a change in economic circumstances.

.432 If the household pays the claim, payments shall be accepted and submitted to SDSS in accordance with the procedures outlined in Section 63-801.8.

.44 Action Against Households and Sponsors of Alien Households Which Fail to Respond

.441 The CWD shall reduce the household's food stamp allotment without further notice in accordance with Section 63-801.73 when:

(a) Collection action has been initiated for against the household or the sponsor for repayment of an inadvertent household error or intentional Program violation claim; and

(b) The household is currently participating in the Food Stamp Program; and

(c) The household does not respond to the DFA 377.73 within 30 days of the date the notice is mailed.

.442 If any nonparticipating or participating household against whom collection action has been initiated for repayment of an administrative error claim

does not respond to the first DFA 377.7B, additional repayment notices shall be sent at reasonable intervals, such as 30 days, until the household or the sponsor has responded by paying or agreeing to pay the claim (Repayment Agreement, DFA 377.7C), or until the criteria for suspending collection action, as specified in Section 63-801.5 have been met.

.5 Suspending and Terminating Collection of Claims

.51 Suspending Collection of Inadvertent Household and Administrative Error Claims

.511 If no collection action was initiated because of conditions specified in Section 63-801.411, an inadvertent household or administrative error claim shall be suspended.

.512 If collection action was initiated, and at least one demand letter has been sent, further collection action on any administrative error claim or on an inadvertent household error claim against a nonparticipating household or its sponsor shall be suspended when:

(a) The household cannot be located; or

(b) The cost of further collection action is likely to exceed the amount that can be recovered.

.52 Suspending Collection of Intentional Program Violation Claims

.521 The CWD shall suspend collection action on intentional Program violation claims at any time if it has documentation that the household and/or the sponsor cannot be located.

.53 Terminating Collection of Claims

A claim shall be determined uncollectible after it is held in suspense for three years. The CWD shall use a suspended or terminated claim to offset a restoration of lost benefits in accordance with Section 63-802.54.

.54 Claims Discharged Through Bankruptcy

CWDs shall act on behalf of, and as, FNS in any bankruptcy proceeding against bankrupt households owing

food stamp claims. CWDs shall possess any rights, priorities, interests, liens or privileges, and shall participate in any distribution of assets, to the same extent as FNS. Acting as FNS, CWDs shall have the power and authority to file objections to discharge, proofs of claims, exceptions to discharge, petitions for revocation of discharge, and any other documents, motions or objections which FNS might have filed. Any amounts collected under this authority shall be transmitted to FNS as provided in Section 63-801.8.

.6 Change in Household Composition

.61 Inadvertent Household and Administrative Error Claims

The CWD shall initiate collection action against the household which received the overissuance for which the inadvertent household or administrative error claim was established. If a change in household membership occurs, the CWD shall initiate collection action against the household containing a majority of the individuals who were household members at the time the error occurred. If the CWD cannot locate or determine the household which contains a majority of household members, the CWD shall initiate collection action against the household containing the head of the household at the time the overissuance occurred.

.62 Intentional Program Violation Claims

The CWD shall initiate collection action against the household which contained the household member found to have committed intentional Program violation and which received the overissuance for which the claim was established. If a change in household membership occurs, the CWD shall initiate collection action against the household containing a majority of the individuals who were household members at the time the act(s) of intentional Program violation occurred. If the CWD cannot locate or determine the household which contains a majority of the household members, the CWD shall initiate collection action against the household containing the head of the household at the time the overissuance occurred.

.7 Method of Collecting Payments

As specified in Section 63-801.4, CWDs shall collect payments for claims against households as follows:

.71 Lump Sum

- .711 If the household or the sponsor chooses to pay the claim at one time, the CWD shall collect a lump sum payment. The household shall not be required to liquidate all of its ~~nonliquid~~ resources as defined in Section 63-102(hh) to make this one lump sum repayment.
- .712 If the household or the sponsor prefers to make a lump sum cash payment as partial payment of the claim, the CWD shall accept this method of payment.
- .713 If the household or the sponsor chooses to make a lump sum payment of food stamp coupons as full or partial payment of the claim, the CWD shall accept this method of repayment.
- .72 Installments
 - .721 The CWD shall negotiate a payment schedule with the household or the sponsor if the household or sponsor chooses this method for a full or partial repayment of the claim. Payments shall be accepted by the CWD in regular installments. The household may use food stamp coupons as full or partial payment of any installment. If the full amount of the claim cannot be liquidated in three years, the CWD shall compromise the claim by reducing it to an amount that will allow the household to pay the claim in three years. A CWD shall use the full amount of the claim to offset any restoration of lost benefits due the household.
 - .722 If the household or the sponsor fails to make a payment in accordance with the established repayment schedule (either a lesser amount or no payment), the CWD shall send the household or the sponsor a DFA 377.7B explaining that no payment or an insufficient payment was received. The notice shall inform the household or the sponsor that it may contact the CWD to discuss renegotiation of the payment schedule. The notice shall also inform the household that unless the overdue payments are made or the CWD is contacted to discuss renegotiation of the payment schedule the allotment of a currently participating household against which an inadvertent household error or intentional Program violation claim has been established will be reduced without further

notice and in accordance with procedures in Section 63-801.73.

(a) If the household, or the sponsor responds to the notice, the CWD shall take one of the following actions as appropriate:

(1) If the household or the sponsor makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household or the sponsor to do so;

(2) If the household or the sponsor requests renegotiation, and if the CWD concurs with the request, negotiate a new payment schedule DFA 377.7C;

(3) If the household or the sponsor requests renegotiation of the amount of its repayment schedule, but the economic circumstances of the household or the sponsor have not changed enough as defined in Section 63-801.431(c)(1) to warrant the requested settlement, the CWD may continue renegotiation until a settlement can be reached. The CWD may invoke allotment reduction against a currently participating household for repayment of an intentional Program violation claim if a settlement cannot be reached.

(b) If the household or the sponsor fails to respond, the CWD shall invoke allotment reduction. If allotment reduction is invoked, no further notice is required.

.723 In cases where the household is currently participating in the Food Stamp Program and a payment schedule is negotiated for repayment of an inadvertent household error or intentional Program violation claim, the CWD shall ensure that the negotiated amount to be repaid each month through installment payments is not less than the amount which could be recovered through allotment reduction. Once negotiated, the amount to be

repaid each month through installment payments shall remain unchanged regardless of subsequent changes in the household's monthly allotment. However, the CWD, the household, or the sponsor shall have the option to initiate renegotiation of the payment schedule if they believe that the economic circumstances of the household or the sponsor have changed enough to warrant such action.

.73 Reduction in Food Stamp Allotments

- .731** CWDs shall collect repayments for an inadvertent household error claim or an intentional Program violation claim from a household currently participating in the Program by reducing the household's food stamp allotments as provided in Section 63-801.44.
- .732** CWDs shall collect payments for an administrative error claim from a household currently participating in the Food Stamp Program by reducing the household's food stamp allotments if the household prefers to use this method of repayment.
- .733** Prior to reduction, the CWD shall inform the household of the appropriate formula provided in Section 63-801.738, for determining the amount of food stamps to be recovered each month and the effect of that formula on the household's allotment (i.e., the amount of food stamps the CWD expects will be recovered each month), and of the availability of other methods of repayment (DFA 377.7C).
- .734** If the household requests to make a lump sum cash and/or food stamp coupon payment as full or partial payment of the claim, the CWD shall accept this method of payment. The CWD shall reduce the household's allotment in accordance with Section 63-801.738, to recover any amounts of an inadvertent household error or intentional Program violation claim not repaid through a lump sum cash and/or food stamp coupon payment, unless a payment schedule has been negotiated with the household.
- .735** The provision in Section 63-503.325 for a \$10 minimum benefit level for households with one and two members only, shall apply to the allotment prior to the reduction.

.736 The CWD shall use the full amount of the claim to offset any restoration of lost benefits.

.737 For intentional Program violation claims, if the full amount of the claim cannot be liquidated in three years the CWD shall compromise the claim by reducing it to an amount that will allow the household to make restitution within three years.

.738 The amount of food stamps to be recovered each month through allotment reduction shall be determined in accordance with the following procedures and the calculated figure rounded as specified in Section 63-503.31.

(a) Inadvertent Household Error Claims

For inadvertent household error claims, the amount of food stamps recovered shall be 10 percent of the household's monthly allotment or \$10 per month, whichever is the greater amount.

(b) Administrative Error Claims

For administrative error claims, the amount of food stamps to be recovered each month from a household choosing to use this method shall be negotiated with the household. Choice of this option is entirely up to the household and no household shall have its allotment reduced by an amount with which it does not agree for payment of an administrative error claim.

(c) Intentional Program Violation Claims

For intentional Program violation claims, the amount of food stamps shall be 20 percent of the household's monthly allotment or \$10 per month, whichever is the greater amount.

.74 Interstate/Intercounty Claims Collection

.741 In cases where a household moves out of state, the CWD shall initiate or continue collection action against the household for any overissuance to the household which occurred while it was under the state's jurisdiction. The CWD which overissued

benefits to the household shall have the first opportunity to collect any overissuance. However, if the CWD which overissued benefits to the household does not take action to collect as soon as administratively possible, then the government agency which administers the area into which the household moves may initiate action to collect the overissuance. Prior to initiating action to collect claims against households which have moved into the state, the CWD shall contact the agency which overissued benefits to ascertain that it does not intend to pursue prompt collection. The claim collection incentive shall be retained by the CWD which collects the overissuance.

- .742 In cases where a household moves from one county to another within the state, the CWD in the county where the overissuance occurred shall initiate or continue collection action against the household. If the CWD in the county where the household was overissued benefits is unable to take action to collect, then the CWD in the county of the household's new residence shall initiate action to collect the overissuance. However, prior to initiating action to collect such overissuances, the CWD in the household's new county of residence shall contact the CWD in the county where the overissuance occurred to ascertain that it is unable to pursue collection action. The claim collection incentive is retained by the CWD which collects the overissuance.

.8 Submission of Payments

- .81 The CWD shall retain the value of funds collected for inadvertent household error, intentional Program violation, or administrative error claims. This amount includes the total value of allotment reductions to collect claims, but does not include the value of benefits not issued as a result of a household member being disqualified. The CWD's advance will be adjusted on a quarterly basis (calendar quarter) in an amount equal to the state and federal share of the quarterly intentional Program violation, inadvertent household error, and administrative error claim collections together with any adjustments for prior quarters.
- .82 Each CWD shall submit, for each calendar quarter, a completed Form DFA-209, Status of Claims Against Households.

- .821 A completed DFA-209 is due no later than 30 days after the end of each calendar year quarter and shall be submitted to SDSS even if the CWD has not collected any payments. Failure to submit the DFA-209 to SDSS in a timely manner or in a fully completed format may result in a temporary suspension of a portion of the CWD's advance.
- .822 In addition to reporting the amount of funds recovered from inadvertent household error, intentional Program violation, and administrative error claims each quarter on DFA-209, the CWD shall also report these amounts on other documents as required by SDSS regulations.
- .823 In accounting for inadvertent household error and intentional Program violation claims collections, the CWD shall include cash or coupon repayments and the value of allotments recovered or offset by the restoration of lost benefits. The value of benefits not issued as a result of a household member being disqualified, shall not be considered recovered allotments and shall not be used to offset an intentional Program violation claim.
- .83 Collections from claims established as inadvertent household errors ~~claims~~ prior to the determination of intentional Program violation shall be handled as follows:
 - .831 Once After a determination of intentional Program violation is made, the CWD may retain any amounts recovered on a claim, while such claim was being handled as an inadvertent household error claim, pending a determination by an administrative disqualification hearing official or a court of appropriate jurisdiction that an intentional Program violation was committed, at the incentive rate applicable for intentional Program violation claims. Prior to the determination of intentional Program violation, the claim retention amount shall be at the rate applicable to inadvertent household error claims.
- .84 If a household has overpaid a claim, the CWD shall pay the household any amounts overpaid as soon as administratively possible but not later than 10 days after the overpayment becomes known. The household shall be paid in cash for overpayments. Overpaid amounts of a claim which have previously been reported as collections on a prior DFA-209 and which have been

repaid to the household shall be reported in the appropriate column on the DFA-209 for the quarter in which the repayment occurred. The amount of the repayment shall be subtracted from the total amount collected.

.85 Returned Coupons

The CWD shall destroy any coupons or coupon books collected from households as payment for claims in accordance with the procedures outlined in this section.

.851 The CWD shall require the collection points to complete a FNS-135, Affidavit of Return of Food Coupons, as verification for receipt of coupons returned as payment of a claim. The original copy shall accompany the voided coupons to the destruction point, a copy shall be placed in the client's casefile, and a copy shall be submitted to the CWD claim accounting office where the DFA-209 is completed.

.852 The CWD shall require the collection points to void, immediately upon receipt, all coupons collected as payment and either send the coupons to a coupon destruction point or hold the subject coupons in secure storage pending examination and destruction by the CWD at the claims collection point.

.853 After verification of the FNS-135 reports from the claims collection point, the CWD shall destroy the coupons or coupon books received from the claims collection points if the value of the coupons does not exceed \$500 per claims collection point for any month. If the value of the coupons to be destroyed exceeds \$500 per claims collection point per month, the CWD shall request FNS approval prior to any destruction of the coupons at that collection point.

.854 The CWD shall destroy the coupons and coupon books by burning, shredding, tearing, or cutting so that they are not negotiable. Two CWD officials shall witness and certify the destruction and forward the Form FNS-471, Coupon Account and Destruction Report, with the DFA-209 to SSSS. The amount of coupons destroyed each month in repayment of claims shall equal the amount reported on the DFA-209 as repayment in coupons. Coupons destroyed for reasons other than in repayment of

claims must be reported on a separate FNS-471 which is attached to the FNS-250 report.

- .86 In cases where FNS has billed the State for a CWD negligence, any amounts collected from households which were caused by the CWD's negligence will be credited by FNS.

.9 Accounting Procedures

Each CWD shall maintain an accounting system for monitoring claims against households. At a minimum, the accounting system shall be designed to readily accomplish the following:

- .91 Identify claims by categories of inadvertent household error, administrative error, and intentional Program violations.
- .92 Provide data necessary to accurately complete the Status of Claims Against Households Report DFA-209.
- .93 Document the circumstances which resulted in a claim, the procedures used to calculate the claim, the methods used to collect the claim and, if applicable, the circumstances which resulted in suspension or termination of collection action.
- .94 Identify those situations in which an amount not yet restored to a household as a restoration of lost benefits can be used to offset a claim owed by the household.
- .95 Identify those households that have failed to make installment payments on their claims.
- .96 Document how much money was collected in payment of a claim and how much was submitted to SDSS through an adjustment of the CWD's advance. See Section 63-702 on CWD liability for claim collection losses.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Sections 18901 and 18902; 7 CFR Sections 272.1(g)(ii), 273.11, 273.18(a), (b), (e), and (g)(3).

- 1 Disqualification Penalties for Intentional Program Violation
 - 11 Individuals found to have committed an intentional Program violation either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to participate in the Food Stamp Program as follows:
 - 111 Six months for the first violation.
 - 112 Twelve months for the second violation.
 - 113 Permanently for the third violation.
 - 12 Provisions governing administrative and court-ordered disqualifications, CWD administrative responsibilities and reporting requirements, and other related provisions are covered in SDSS' Manual of Policies and Procedures, Division 20, Chapter 20-300.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, and 7 CFR Section 273.16(a).

•2 Participation While Awaiting a Hearing

A pending disqualification hearing shall not affect the individual's or the household's right to be certified and participate in the Food Stamp Program. Since the CWD cannot disqualify a household member for intentional Program violation until the hearing official finds that the individual has committed an intentional Program violation, the CWD shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. However, the household's benefits shall be terminated if the certification period has expired and the household, after receiving its Notice of Expiration fails to reapply. The CWD shall also reduce or terminate the household's benefits if it has documentation which substantiates that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of intentional Program violation and the resulting disqualification hearing) and the household fails to request a state hearing and continuation of benefits pending the hearing.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, and 7 CFR 273.16(a).

63-805 INTENTIONAL PROGRAM VIOLATION
DISQUALIFICATION (Continued)

63-805

•3 Reversed Administrative Disqualifications.

In cases where the determination of intentional Program violation is reversed by a court of appropriate jurisdiction, the CWD shall reinstate the individual in the Food Stamp Program if the household is eligible. The CWD shall restore benefits that were lost as a result of the disqualification in accordance with the procedures specified in Section 63-802.6.

Authority: Welfare and Institutions Code Sections 10553 and 18904.

Reference: Welfare and Institutions Code Sections 18901, 18904, and 7 CFR 273.16(a).

FACE SHEET
(OAL-4)

84-12283
(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD# 0784-33

RECEIVED FOR FILING

DEC 28 4 18 PM '84

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
PROCESSED FOR FILING

JAN 29 1985

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

Linda S. McMahon

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

JAN 30 1985

At 4:25 o'clock P. M.

MARCH FONG EU, Secretary of State

By *Margaret Hershberger*
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Angie Teixeira, Regulations Analyst

TELEPHONE

323-0884

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED 63-504.382; 63-505.222; 63-505.34 and 63-804.612

Title: 63-300.4; 63-501.111; 63-502(h)(i); 63-503.232(c)(4) and (d); 63-504.3; 63-504.343(b);
SECTIONS ADOPTED

63-044; 63-503.232(d)(2); 63-505.33

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☐ No

☒ Yes, if yes give date of previous filing December 3, 1984

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

August 31, 1984

b. DATE OF ADOPTION OF REGULATION(S)

December 27, 1984

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

November 9 thru 23, 1984

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☒ Effective on March 1, 1985 (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Adopt new Section 63-044 to read:

63-044 IMPLEMENTATION OF AMENDED MONTHLY REPORTING 63-044
AND RETROSPECTIVE BUDGETING REVISIONS

Effective March 1, 1985, CWDs shall implement the revised provisions relating to monthly reporting and retrospective budgeting in Sections 63-300.4, 63-503.232, 63-504.3, 63-504.343, 63-505.2, 63-505.3, and 63-804.612 as promulgated by 7 CFR 273.9 and 273.21 (Public Law 97-35).

Authority: welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Sections 18902, 18904, and 10553 and letter dated July 13, 1984 to Linda McMahon from FNS.

Amend Section 63-300.4 to read:

63-300 APPLICATION PROCESS (Continued)

63-300

•4 Interviews

All applicant households, including those submitting applications by mail, shall have face-to-face interviews in a food stamp office or other certification site with a qualified eligibility worker prior to initial certification and all recertifications except when waived as noted below. Interview requirements for PA and GA applicants are detailed in Section 63-301.6. The individual interviewed may be the head of household, spouse, any other responsible member of the household, or an authorized representative. The individual interviewed may bring any person he/she chooses to the interview. The interviewer shall not simply review the information that appears on the application, but shall explore and resolve with the household unclear and incomplete information and document any changes in household circumstances that have occurred between the time the application was filed and the time of the certification interview. Households shall be advised of their rights and responsibilities during the interview, including but not limited to, the appropriate application processing standard, and the household's responsibility to report changes. In addition, the applicant shall be advised that eligibility will be determined without discrimination, and the availability and amount of the Standard Utility Allowance (SUA). The interview is an official and confidential discussion of household circumstances with the applicant. The applicant shall be made to feel at ease during the interview and in all instances the household's right to privacy shall be respected. Facilities shall be adequate to preserve the privacy and confidentiality of the interview. The scope of the interview shall not extend beyond the examination of household circumstances which directly relate to the determination of household eligibility and basis of issuance.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.21(h)(1)(iv).

Amend Section 63-501.111 to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.1 Definition of Resources (Continued)

.11 (Continued)

- .111 A non-recurring lump sum payment includes, but is not limited to, income tax refunds, rebates or credits; retroactive ~~active~~ lump-sum social security, ~~public assistance~~, railroad retirement benefits, or other payments; retroactive payments from the approval of an application for any assistance program; court ordered retroactive payments for any assistance program; supplemental or corrective payments received for a previous month from any assistance program; lump-sum insurance settlements; or refunds of security deposits on rental property or utilities. These payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other Federal law in accordance with Section 501.3(k), (1) through (7) or by Section 63-501.3(1).

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18901, 7 CFR 273.9(c) and Indexed Policy Memo 84-37 dated August 13, 1984 from FNS.

Amend Section 63-502(h) and (i) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

•2 Income Exclusions. Only the following items shall be excluded from household income: (Continued)

- h. Money received in the form of a nonrecurring lump-sum payments, including, but not limited to, income tax refunds, rebates, or credits; retroactive lump-sum social security, ~~public assistance~~ railroad retirement benefits, or other payments; retroactive payment from the approval of an application for any assistance program; court ordered retroactive payments for any assistance program; supplemental or corrective payments received for a previous month from any assistance program; lump-sum insurance settlements; or refunds of security deposits on rental property or utilities. These payments shall be counted as resources in the month received, in accordance with Section 63-501.311 unless specifically excluded from consideration as a resource by other federal laws as specified in Section 63-501.3(k) or Section 63-501.3(l).
- i. The cost of producing self-employment income. The procedures for computing the cost of producing self-employment income are described in Section 63-503.541.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18901, 7 CFR 273.9(c), and Indexed Policy Memo 84-37 dated August 13, 1984 from FNS.

Amend Section 63-503.232(c)(4) and (d) to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS 63-503

•2 Determining Resources, Income and Deductions (Continued)

•23 Households Subject to Retrospective Budgeting After the Beginning Months (Continued)

•232 Retrospective Budgeting (Continued)

(c) Income Only in the Month Received (Continued)

(4) After the beginning months, the CWD paid grant for the issuance month shall be anticipated with reasonable certainty, as defined in Section 63-503.242(a)(1). The CWD shall ensure that any additional or corrective payments to the CWD paid grant received in and for the issuance month are counted prospectively. If the CWD had not anticipated the payment or did not have time to budget it prospectively the CWD must budget the payment retrospectively. The household shall be provided with a notice of any changes in its allotment as specified in Section 63-504.265. Refer to Section 63-501.111 for definition of resources and Section 63-502.2 h for income exclusions.

(d) Discontinued Income

(1) Any income that a household received in a beginning month from a source that no longer provides income to the household in the corresponding retrospectively budgeted month and which was included in the households prospective budget shall be disregarded when computing benefits for the issuance month, except as specified in Section 63-503.232(d)(1)(A) and (2). The CWD shall not disregard income which

has been discontinued for the following reasons:

†††(A) Income has been discontinued due to participation in a strike or quitting a job unless good cause has been determined in accordance with Section 63-408.3.

- (2) For households receiving a CWD paid grant in the issuance month, the CWD shall disregard income received in the budget month from a source that no longer provides income to the households in the corresponding issuance month, provided the household has reported the termination of the income either in the monthly report for the budget month or in some other manner and the CWD has sufficient time to process the change and affect the allotment in the corresponding issuance month.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18901, 7 CFR 273.21(j)(1)(vii)(B), and Indexed Policy Memo 84-37 dated August 13, 1984 from FNS.

Amend Section 63-504.3 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

•3 Monthly Reporting

The CWD, at the time of the application interview, shall determine which households are subject to monthly reporting requirements, as specified in Section 63-505.2. The CWD shall provide all monthly reporting households with the monthly eligibility report (CA 7) for reporting the information and changes required by Section 63-505.3. Additionally, the CWD shall provide assistance in completing and filing the CA 7 to households whose adult members are all either mentally or physically handicapped, non-English speaking or lacking in reading and writing skills such that they cannot complete and file the CA 7. The CWD shall require monthly reporting households to submit on a monthly basis a complete CA 7 by the 5th of each report month. The recipient due dates and CWD time limits shall be modified by Sections 63-102 {~~kkk~~} and {~~ttt~~}. If the household fails to submit a complete CA 7 by the ~~ttth~~ eleventh of the report month, the CWD shall take action, in accordance with Section 63-504.33.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.21(b)(3).

Amend Section 63-504.343(b) to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
ELIGIBILITY (Continued)

63-504

•3 Monthly Reporting (Continued)

•34 CWD Action on a Complete CA 7 Requiring Additional
Verification/Information (Continued)

•343 The CWD shall contact the household as needed to
obtain further information on specific items.
These items include, but are not limited to:

- (a) The effect of a reported change in
resources on a household's total resources;
and
- (b) The effect of a reported change in
household composition or loss of job or
source of earned income on the
applicability of the work registration
requirement.

Authority: Welfare and Institutions Code Sections 18904 and
10553.

Reference: Welfare and Institutions Code Section 18901 and 7
CFR 273.21(j)(1)(iv)(B).

Amend Section 63-504.382 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING
 ELIGIBILITY (Continued)

63-504

•3 Monthly Reporting (Continued)

•38 Issuance of Benefits (Continued)

•382 Delayed Issuance

If an eligible household fails to file a complete CA 7 after 10 days before the end of the report month, but files a complete CA 7 by the extended filing date, the CWD shall issue the household's benefits as soon as administratively feasible. However, if necessary the CWD may delay providing the household an opportunity to participate up to 10 days after its normal issuance date, but in no event, later than the 15th day of the issuance month.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18902 and 7 CFR 273.21(k)(2)(i).

Amend Section 63-505.222 to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued)

63-505

•2 Monthly Reporting/Retrospective Budgeting Households
(Continued)

•22 Exclusion from monthly reporting (Continued).

- 222 Households without earned income whose adult members are all without earned income and are elderly or disabled shall be excluded from monthly reporting, unless these households file PA monthly reports as a public assistance recipient.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.21(b)(2)(B).

Adopt new Section 63-505.33 and renumber Section 63-505.34 to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued) 63-505

•3 Reported Information for Monthly Reporting Households (Continued)

•33 Income and resources of an alien's sponsor and sponsor's spouse, if the sponsor's spouse is living with the sponsor.

•33~~4~~ For food stamp purposes, households need not provide PA only information requested on the CA 7.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.21(h)(3)(iii).

Amend Sections 63-804.612 to read:

63-804 STATE HEARINGS (Continued)

63-804

•6 Continuation of Benefits (Continued)

•61 Request for Continuation of Benefits (Continued)

•612 If the request for a hearing does not positively indicate that the household has waived continuation of benefits, the CWD shall assume that continuation of benefits is desired and shall issue the benefits, in accordance with Section 63-804.6. If CWD action is upheld by the hearing decision, a claim against the household shall be established for all overissuances as specified in Section 63-801.213.

Authority: Welfare and Institutions Code Sections 18904 and 10553.

Reference: Welfare and Institutions Code Section 18901 and 7 CFR 273.18(b)(1)(iii).

FACE SHEET
(OAL-4)

85-0122-2
(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0584-22

RECEIVED FOR FILING

JAN 22 2 45 PM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

FEB 8 1985

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

FEB 8 - 1985

At 4:25 o'clock P. M.

MARCH FONG EU, Secretary of State

By Virginia L. Brady
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Andy Molina

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: Manual of Policies and Procedures (MPP) Sections 22-003.12 and 22-054.1

SECTIONS ADOPTED

22-003.122

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

August 3, 1984

b. DATE OF ADOPTION OF REGULATION(S)

January 18, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

January 4, 1985 to January 18, 1985

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.

(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

(1) Amend MPP Section 22-003.12 and adopt Subsection 22-003.122 to read:

22-003 RIGHT TO STATE HEARING (Continued)

22-003

•1 (Continued)

•12 Notwithstanding any other regulation, there is no right to a state hearing when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for the request for the state hearing is incorrect grant computation.

•121 In the event of such automatic grant adjustment, the Office of Chief Referee shall promptly review the requests for state hearing to determine whether the basis for a request is the automatic grant adjustment. See Section 22-054.

•122 In the AFDC Program, all those who request a hearing when the change is because either state or federal law required an automatic grant adjustment shall be treated as though the subject of the hearing was not a law change until the time of the hearing.

(a) If the hearing officer determines that the subject of the hearing was the wisdom of such a law change, the request shall be permitted to be dismissed pursuant to Section 22-054.21.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10950 and Turner v. McMahon.

(2) Amend MPP Section 22-054.1 to read:

22-054 DISMISSALS (Continued)

22-054

- 1 Except in the AFDC Program the Office of the Chief Referee shall deny or dismiss a request for a hearing where the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients and aid shall not be continued in the amount that claimant would have been paid if the adjustment had not been made. Otherwise a request for hearing shall not be dismissed prior to the hearing unless it has been withdrawn or abandoned.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10950 and Turner v. McMahon

FACE SHEET
(OAL-4)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD #0584-22

RECEIVED FOR FILING

JAN 22 2 46 PM '85

OFFICE OF
ADMINISTRATIVE LAW

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

Linda S. McMahon

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

LEAVE BLANK

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Andy Molina

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: Manual of Policies and Procedures (MPP) Sections 22-003.12 and 22-054.1

SECTIONS ADOPTED

22-003.122

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

August 3, 1984

b. DATE OF ADOPTION OF REGULATION(S)

January 18, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

January 4, 1985 to January 18, 1985

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date *later than* 30 days after filing with the Secretary of State.)

(1) Amend MPP Section 22-003.12 and adopt Subsection 22-003.122 to read:

22-003 RIGHT TO STATE HEARING (Continued)

22-003

•1 (Continued)

•12 Notwithstanding any other regulation, there is no right to a state hearing when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for the request for the state hearing is incorrect grant computation.

•121 In the event of such automatic grant adjustment, the Office of Chief Referee shall promptly review the requests for state hearing to determine whether the basis for a request is the automatic grant adjustment. See Section 22-054.

•122 In the AFDC Program, all those who request a hearing when the change is because either state or federal law required an automatic grant adjustment shall be treated as though the subject of the hearing was not a law change until the time of the hearing.

(a) If the hearing officer determines that the subject of the hearing was the wisdom of such a law change, the request shall be permitted to be dismissed pursuant to Section 22-054.21.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10950 and Turner v. McMahon.

(2) Amend MPP Section 22-054.1 to read:

22-054 DISMISSALS (Continued)

22-054

- 1 Except in the AFDC Program the Office of the Chief Referee shall deny or dismiss a request for a hearing where the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients and aid shall not be continued in the amount that claimant would have been paid if the adjustment had not been made. Otherwise a request for hearing shall not be dismissed prior to the hearing unless it has been withdrawn or abandoned.

Authority: Welfare and Institutions Code Sections 10553 and 10554.

Reference: Welfare and Institutions Code Section 10950 and Turner v. McMahon

FACE SHEET

(OAL-4)

(See Instructions on Reverse)

ORD # 1084-51

84-1212-4

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

RECEIVED FOR FILING

DEC 12 4 45 PM '84

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED

APPROVED FOR FILING

FEB 1 8 1985

Office of Administrative Law

LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

BY:

Rosalie Clark

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

FEB 15 1985

At 4:23 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Margie Hershberger*
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Dan Fleek, Regulations Analyst

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

(See Attached List)

Title: *22*

SECTIONS ADOPTED

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☐ Regular

☐ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☒ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing _____

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☐ No

☒ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

N/A

b. DATE OF ADOPTION OF REGULATION(S)

12/6/84

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

N/A

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

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Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050–6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

LIST OF REGULATIONS AMENDED

Section 63-103.1

Section 63-107.42 and .85

Section 63-201.5

Section-301.41, .412, .512, and .532

Section 63-401

Section-402.311, .42, .611, .621, and .622(c)

Section 63-403.12, .13, .14, .15, .16, .17, .18
and .21

Section 63-501.521

Section 63-502.31 and .34

Section 63-601.2

Section 63-603.11, .12, .13, .14, .21, .3, .313,
.314, .32, .41, and .425

Section 63-605.621(d)

Section 63-704.11, .111, .112, .113, .21, .22,
.23, .231, .232, .271, .272, .2d, .29,
and .291

Section 63-706.1, .111, .112, .12, .14, .15,
.16, and .3

Section 63-708.1 and .2

Section 63-803.1, .24, and .3

Section 63-804.2, .3, .4, .5, .642, and .7

Amend Section 63-103.1 as shown:

63-103 ADMINISTRATIVE AUTHORITIES

.1 FNS Delegations to State Agency SDSS

state agency SDSS shall be responsible for the administration of the program within the state.

Amend Sections 63-107.41, and .42, and .85 as shown:

63-107 BENEFIT REDUCTION, SUSPENSION, OR CANCELLATION 63-107
PROCEDURES (Continued)

.4 Affected Allotments (Continued)

.42 Allotments or portions of allotments representing restored or retroactive benefits for a prior unaffected month shall ~~would~~ not be reduced, suspended, or cancelled, even though they are issued during an affected month.

.8 Effects of Reductions, Suspensions, or Cancellations on the Certification of Eligible Households (Continued)

.85 Households whose certification period expires during a month in which allotments have been reduced, suspended, or cancelled shall be recertified according to Section 63-504.46.

Amend Section 63-201.5 as shown:

63-200 PROGRAM REQUIREMENTS

63-200

63-201 GENERAL TERMS AND CONDITIONS

63-201

.5 Records and Reports

~~Counties~~ CWDs shall keep such records and submit such reports
and other information as required by SDSS.

Amend Sections 63-301.41, .412, .512, and .532 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.4 Delayed Actions (Continued)

.41 Determining Cause

The county welfare department CWD shall first determine the cause of the delay using the following criteria:
(Continued)

.412 Delays that are the fault of the county welfare department CWD include, but are not limited to, those cases where the CWD failed to take the action described above in Section 63-301.411 (a through d).

.5 Expedited Service

.51 Entitlement to Expedited Service (Continued)

.512 Migrant or seasonal farmworker households who are destitute as defined in Section 63-503.43.

.53 Processing Standards (Continued)

.532 Drug Addicts and Alcoholics and Residents of Group Living Arrangements

For residents of drug addiction or alcoholic treatment and rehabilitation centers and residents of group living arrangements as defined in Section 63-402.4 who are entitled to expedited service, the CWD shall mail ATP or coupons, or have the ATP or coupons available to be picked up no later than seven working days following the date the application was filed.

Amend Section 63-401 as shown:

63-401 RESIDENCY

63-401

A household must be living in the county in which it files an application for participation. No individual may participate as a member of more than one household, or in more than one county in any month except for eligible residents of shelters for battered women and children (see Section 63-503.5846) who were program participants in the dwelling of the abuser. The CWD shall not interpret residency to mean domicile which is sometimes defined as a legal place of residence or principle home. The CWD shall not impose any durational residency requirements. A fixed residency is not required; for example, migrant campsites satisfy the residency requirement. Nor shall residency require an intent to reside permanently in the county. Persons in a county solely for vacation purposes shall not be considered residents.

Amend Sections 63-402.311, .42, .611, .621, and .622 as shown:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.3 Boarders (Continued)

.31 (Continued)

- .311 Such individual shall not be considered a member of a participant or applicant household, nor shall the income and resources of boarders be considered available to such households. However, the amount of payment that a boarder gives to a household for lodging and meals shall be treated as self-employment income to the household. The procedures for handling self-employment income from boarders (other than such income received by a household that owns and operates a commercial boarding house) are set forth in 63-503.542. The procedures for handling income from boarders by a household that owns and operates a commercial boarding house are set forth in 63-503.541. For Program purposes a commercial boarding house is defined as an establishment licensed as a commercial enterprise which offers meals and lodging for compensation. In counties without licensing requirements, a boarding house shall be defined as a commercial establishment which offers meals and lodging for compensation with the intent of making a profit. The number of boarders residing in a boarding house shall not be used to determine if a boarding house is a commercial enterprise.

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.4 (Continued)

- .42 Narcotic addicts or alcoholics who, for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program, reside at a treatment center. An individual must be a resident of the center and participating in the treatment or rehabilitation program to qualify for the Food Stamp Program as outlined in Section 63-503.5647.

If the spouse and/or family members reside at the treatment or rehabilitation center, but do not receive treatment and the center customarily provides meals for residents, the spouse and/or family members are residents of an institution and are not eligible for food stamp benefits. If the treatment or rehabilitation center does not provide meals to the spouse and/or family members residing at the center, the spouse and/or family members are roomers and may participate in the Food Stamp Program as separate households if otherwise eligible as specified in Section 63-402.2.

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

•6 (Continued)

•61 (Continued)

•611 Making application for the program. When the head of the household or the spouse cannot make application, another household member may apply or an adult nonhousehold member may be designated as the authorized representative for that purpose. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. In conjunction with these provisions, another household member, or the household's authorized representative may complete work registration forms (DE 8435 FS) for those household members required to register for work. The CWD shall inform the household that the household will be held liable for any overissuance which results from erroneous information given by the authorized representative, except as provided in Section 63-503.566 and Section 63-885476. Adults who are nonhousehold members may be designated as authorized representatives for certification purposes only under the following conditions:

•62 (Continued)

•621 The residents of drug or alcoholic treatment centers shall apply and be certified for Food

Stamp Program participation through the use of an authorized representative who shall be an employee of and designated by the institution that is administering the treatment and rehabilitation program. The institution shall apply on behalf of each addict or alcoholic and shall receive and spend the coupon allotment for food prepared by and/or served to the addict or alcoholic. The institution shall be responsible for complying with the requirements set forth in Section 63-503.5647. Each resident participating in the treatment program shall be certified as a one person household without regard to a spouse and/or family members who may or may not reside at the treatment center.

•622 (Continued)

c. In any case, the group living arrangement is responsible for complying with the requirements set forth in Section 63-503.5748. If the group living arrangement has its status as an authorized representative suspended by FNS (as discussed in 63-503.59478), residents applying on their own behalf shall still be able to participate if otherwise eligible.

Amend Sections 63-403.12, .13, .14, .15, .16, .17, .18, and .21 as shown:

63-403 CITIZENSHIP AND ALIEN STATUS

63-403

.1 Citizens and Eligible Aliens (Continued)

- .12 An alien lawfully admitted for permanent residence as an immigrant as defined in Sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act INA.
- .13 An alien who entered the United States prior to June 30, 1948, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship, but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to Section 249 of the Immigration and Nationality Act INA.
- .14 An alien who qualified for conditional entry because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by a catastrophic natural calamity pursuant to Section 203(a)(7) prior to April 1, 1980; Section 207, Section 208 of the Immigration and Nationality Act INA.
- .15 An alien granted asylum through an exercise of discretion by the Attorney General pursuant to Section 208 of the Immigration and Nationality Act INA.
- .16 An alien lawfully paroled into the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act INA. A majority of the Vietnamese and Cuban refugees were admitted under this statutory provision.
- .17 An alien living within the United States to whom the Attorney General has withheld deportation pursuant to Section 243(h)(1) of the Immigration and Nationality Act INA because of the judgment of the Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion.
- .18 An alien who was lawfully admitted for permanent residence into the United States as an immigrant, as defined in the Immigration and Nationality Act INA.

Section 101(a)(15) and Section 101(a)(20), by relying upon an affidavit of support in order to overcome Section 212(a)(15) of the Immigration and Nationality Act INA.

•2 Ineligible Aliens (Continued)

•21 Income and Resources

The income and resources of an ineligible alien who would be considered a household member if it were not for his/her ineligible alien status shall be determined available to the household in accordance with Section 63-503.5449.

Amend Section 63-501.521 to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

•5 Resource Values (Continued)

•52 (Continued)

•521 The entire value of any licensed vehicle shall be excluded if the vehicle ~~is~~ meets any of the following conditions:

- a* Used primarily (over 50 percent of the time the vehicle is used) for income-producing purposes such as, but not limited to, a taxi, truck or fishing boat;
- b* Annually producing income consistent with its fair market value, even if used only on a seasonal basis;
- c* Necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member; for example, the vehicle of a traveling sales person or a migrant farm worker following the work stream;
- d* Necessary for subsistence hunting or fishing;
- e* Used as the household's home and, therefore, excluded under Section 63-501.3(a).
- f* Necessary to transport a physically disabled household member regardless of the purpose of such transportation (limited to one vehicle per physically disabled household member). The vehicle need not have special equipment or be used primarily by or for the transportation of the physically disabled household member. However, a vehicle shall be considered necessary for the transportation of a physically disabled household member if the vehicle is specially equipped to meet the specific needs of the disabled person or if the vehicle is a special type of vehicle

that makes it possible to transport the disabled person.

- g* The exclusions in (a) through (e) of this section will apply when the vehicle is not in use because of temporary unemployment, such as when a taxi driver is ill and cannot work, or when a fishing boat is frozen in and cannot be used.

Amend Sections 63-502.31 and 63-502.34 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.3 Income Deductions (Continued)

- .31 Standard Deduction. ~~A standard deduction~~ Allowed on a per household, per month is allowed basis.

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.3 Income Deductions (Continued)

- .34 Dependent Care. Payments for the actual costs for the care of a child or other dependent when necessary for a household member to accept or continue employment, seek employment in compliance with the job search criteria (or an equivalent effort by those not subject to job search), or attend training or pursue education which is preparatory to employment. This deduction shall not exceed the current maximum ~~in~~ as specified in Handbook Section 63-1101.

Amend Section 63-601.2 to read:

63-601 COUNTY WELFARE DEPARTMENT RESPONSIBILITIES (Continued) 63-601

•2 County Contracted Issuance Agents (Delegation of Issuance of Food Coupons)

Although eligibility determination and certification processes are required functions of the county welfare department CWD and cannot be delegated, the issuance and storage of food coupon books can be handled in a variety of ways. The county welfare department CWD may itself issue and store stamps. Other possible alternatives include issuance and storage by an intracounty agreement with another department, or by contract with federal or state credit unions, banks, federally or state chartered savings and loan associations, United States Postal Service, or other public or private agencies that are fiscally responsible. In all cases the county welfare department CWD must retain final responsibility for food coupon issuance and is liable for the activity of its agents. In addition, the county welfare department CWD is liable for all losses of coupons, which occur prior to depositing the coupons with the postal service (~~Section 63-605.17~~), even if those losses are the result of the performance of issuance, security, or accountability duties by another party. Counties CWDs must establish the fiscal responsibility of nonbank agents, consider their integrity, evaluate their prior business character and consider financial and technical resources before entering into a contractual agreement. Use of retail food stores that are authorized to redeem coupons as issuance agents is prohibited. Issuance activities assigned to any entity in the same inter-related corporate structure with an authorized retail food store is not to be encouraged. However, such entities may be coupon issuers if they are fiscally autonomous, physically separate and employ a different trade name from the retail food store. Contracts with all such entities must be approved by the FSPMB-SDSS prior to execution. The assignment of issuance activities to firms within the confines of retail food stores is also not encouraged. However, counties CWDs may contract with a bank or credit union located in such facilities provided that it is financially independent of the retail grocer and is chartered under federal or state law. Each issuance agent must have one or more officially designated receiving agents responsible for submitting bulk requests for coupon books, and for receipting for them upon arrival.

Amend Section 63-603.11, .12, .13, and .14; .21, .3, .313, .314, and .32; and .41 and .425 as shown:

63-603 MAIL ISSUANCE

63-603

.1 General Provisions

.11 Types of Mail Issuance

An ATP mail issuance system is one which uses an authorization document as an intermediate step in mail issuance. A non-ATP mailing system is one which does not use an authorization document. The system, controls and forms designed by the county CWD to operate an ATP or non-ATP coupon mail issuance system must be approved by the FSPMB-SDSS and FNS.

.12 Mail Issuance Log

The county CWD shall establish and maintain a mail issuance log (DFA 300) to record requests for mail issuance and the date and amount of coupons issued.

.13 Mail Issuance Controls

All operations involving the maintenance of coupon inventory records, assembly of coupon allotments, envelope stuffing, and preparation of envelopes for mailing shall, if at all possible, be performed by at least two persons. If these functions are performed by one person, a second party review shall be made to verify coupon inventory, the reconciliation of the mail issuance log, and the number of mailings prepared. Offices using prestuffing methods must provide for dual accountability during the stuffing and addressing operations and maintain a perpetual coupon inventory control and mail issuance logs. The county CWD shall establish controls which prevent a participant from obtaining coupons through both the mail and over-the-counter issuance systems.

.14 Postal Relations

The county CWD shall consult with appropriate postal officials concerning the schedule for mailing coupons, the approximate volume and value of the mailings, the type of envelopes to be used, and maintain a liaison with postal officials to facilitate prompt, efficient, and safe delivery of coupon mailings to households.

•2 ATP Mail Issuance

•21 Request for Mail Issuance

In an ATP mail issuance system, counties CWDs shall provide the household with a means of requesting mail issuance by the submission of their ATP card. This system may be accomplished by providing a space on the ATP for the recipient to designate mail issuance, or the use of a separate form in conjunction with the ATP card. The receipt of the ATP card with the proper designation would constitute a request for mail issuance.

The issuance transaction must be completed provided that the mail issuance request (a signed ATP or a separate form) is postmarked in the issuance month and is received by the mail issuance site by the fifth of the following month.

•3 Non-ATP Mail Issuance

Counties CWDs wishing to implement a non-ATP mail issuance system must conform with the provisions outlined in Section 63-603.1 as well as the following:

•31 Coupon Delivery (Continued)

•313 Counties CWDs shall ensure that coupons are not mailed to concentrations of households within the same zip code area on the same day.

•314 Counties CWDs may obtain waivers of these requirements by providing the FSPMB-SDSS with adequate documentation to indicate that thefts from the mail will not present a significant problem.

•32 Information Statement

Counties CWDs that elect to use this method must submit a DFA 298, Food Stamp Information Statement, to reflect this change. This form must be submitted to FSPMB-SDSS prior to the actual implementation of this method of issuance.

•4 HIR Mail Issuance

•41 Request for Mail Issuance

In an HIR card system, the county CWD must require that the initial request for mail issuance be submitted in

writing. Thereafter, Mail Issuance Request Form DFA 301 shall be mailed each month with the coupon allotments of those households participating by mail. Households may not receive both mail and over-the-counter issuance in any one month. The form, therefore, is valid only during the month it is issued for provided the household has not received coupons over-the-counter during the issuance period.

The issuance transaction must be completed provided that the Mail Issuance Request is postmarked in the issuance month and is received by the Mail Issuance site by the fifth of the following month.

~~Counties~~ CWDs may elect not to send Form DFA 301s to households which have initially requested mail issuance but which have not used their DFA 301s. Households shall be advised of ~~county~~ CWD procedures in this regard. They may, however, request again, either verbally or in writing, to participate by mail, and the ~~county~~ CWD shall send them the appropriate month's DFA 301s.

•42 DFA 301s Returned as "Undeliverable" (Continued)

- 425 If the household has moved within the county, the certification office shall prepare a Notice of Adverse Action (DFA 377.1) and mail it to the old address. This document is forwardable and may reach the household although the DFA 301 did not. The certification office need not take any further action to locate the household as it is the household's responsibility to report such changes in circumstances.

Should the household contact the ~~county~~ CWD for its DFA 301, the Mail Issuance Request usually would be reissued on the same basis of issuance. However, the ~~county~~ CWD may elect to reissue the DFA 301 based on changed household circumstances, as established at the time of contact, if the new basis of issuance is favorable to the client.

Amend Section 63-605.621(d) as shown:

63-605 COUPON/ATP REPLACEMENTS (Continued)

63-605

•6 Exchange of Old Series Food Coupons for New Series Food Coupons (Continued)

•62 (Continued)

•621 Exchange Performed by CWDs. (Continued)

(d) A consolidated Form FNS-~~1364~~71 shall be completed and attached to the original and duplicate of Form FNS-250, Food Stamp Accountability Report, at the end of each monthly reporting period. The consolidated Form FNS-~~1364~~71 must be signed by the same official who signs Form FNS-250. One copy of the consolidated form shall be retained for audit purposes.

Amend Sections 63-704.11, .111, .112, and .113; and .21, .22, .23, .231, .232, .271a, b, c, .212, .28, .29, and 291 as shown:

63-704 COUPON DISTRIBUTION AND REQUISITION

63-704

.1 Distribution of Coupon

.11 Coupon inventory management. The county CWD shall establish a coupon inventory management system which ensures that coupons are requisitioned and inventories are maintained in accordance with the requirements of these regulations.

.111 The county CWD shall monitor the coupon inventories of the coupon issuers and bulk storage points to ensure inventories are at proper levels and are not in excess of the reasonable needs of the coupon issuers. The county CWD shall consider, among other things, in determining the reasonable inventory needs, the ease and feasibility of resupplying such inventories from storage supplies within the county CWD as well as from the manufacturer. The inventory levels at coupon issuers and bulk storage points should not exceed a six-month supply, taking into account coupons on hand and on order.

.112 The county CWD shall establish an accounting system for monitoring the inventory activities of coupon issuers. The county CWD shall review the Form FNS 250 from coupon issuers and bulk storage points, to determine the propriety and reasonableness of the inventories. Forms FNS 261, advices of shipment, Form FNS 300, advices of transfer, or an FSPMB-SDSS approved form, and reports of returned mail-issued coupons, reports of replacements of mail-issued coupons, FNS 300, advices of transfer, or an FSPMB-SDSS approved form, and reports of overage of food coupon books and physical inventory controls shall be used by the county CWD to assure the accuracy of monthly reports and their compliance with required inventory levels and the accuracy and reasonableness of coupon orders.

.113 Coupon controls. The county agency CWD shall establish control and security procedures to safeguard coupons, similar to those used to protect currency. The county CWD and all persons

or organizations acting on its behalf shall take the necessary precautions to: (1) safeguard coupons from theft, embezzlement, loss, damage, or destruction; (2) avoid unauthorized transfer, negotiation, or use of coupons; (3) avoid issuance and transfer of altered or counterfeit coupons; and (4) promptly report in writing to the FSPMB-SDSS and FNS any loss, theft or embezzlement of coupons. The exact nature of security arrangements will depend on county CWD evaluation of local coupon issuance and storage facilities. These arrangements must permit the timely issuance of coupons while affording a reasonable degree of coupon security. (See Section 63-601.2.)

•2 Coupon Requisitions

- 21 Coupon requisitioning.** The county CWD or its contracted issuance agent shall arrange for the ordering of coupons and the prompt verification and written acceptance of the contents of each coupon shipment. The county CWD shall furnish the appropriate delivery hours and the names of the persons authorized to sign delivery acknowledgements by submitting the appropriate DFA 298, Information Statement.
- 22 FNS review of requisitions.** FNS will assess the reasonableness and propriety of food stamp requisitions submitted by the counties CWDs based on prior inventory changes and will notify the county of any adjustments made to requisitions.
- 23 Specimen coupons.** FNS will provide nonnegotiable specimen coupons to counties CWDs and firms upon written request for the purpose of educating and training employees on program operations.
 - 231** The county CWD or firm shall store specimen coupons in secure storage with access limited to authorized personnel. The county or firm shall keep a perpetual record of specimen coupon inventory.
 - 232** Specimen coupons that are mutilated, improperly manufactured, or otherwise unusable, shall be destroyed by the county CWD or firm. Such destruction shall be witnessed by two persons and noted on the perpetual inventory record maintained for specimen coupons.

•27 Transfers of Coupons

•271 Procedure

Whenever a transfer of coupons occurs between two issuing agents or counties CWDs with different reporting point code numbers, the following procedure is required:

- (a) Both county welfare departments CWDs must consent to the transfer. The initial correspondence concerning such transfers should be between the two welfare departments CWDs. It is suggested that the sending county CWD take steps to verify the initial request, e.g., by calling the receiving county to determine if the original contact was authorized.
- (b) The sending county CWD, or its contracted agent, must initiate the Advice of Transfer Form (FNS 300), exhibited in Chapter 63-1100. This form will accompany the coupons to the receiving county CWD to document the original contact.
- (c) Upon receiving the shipment of coupons, the receiving county CWD or agent will complete the remainder of the document and return a receipted copy to the sending county CWD or agent for his/her files.
- (d) The receiving county CWD or agent will attach the original and copy one of the FNS 300 (or PS 3508) to the FNS 250 report for the month in which the transfer was accomplished as supporting documentation for submission to FNS.

•272 Responsibilities of Counties

Counties CWD will arrange for coupon transfers. FSPM-SDSS staff will assist only in those cases where a statewide shortage exists.

•28 FNS Shipment of Coupons

FNS will ship coupons, printed in such denominations as it may determine necessary, directly to the county's CWDs designated receiving points. FNS will promptly advise the county CWD in writing when coupons are shipped to receiving points using Form FNS 261. Coupons

shall be considered delivered to the county CWD when FNS or its carrier has a signed receipt.

.29 Shipment of Coupons by the County CWD

.291 Once coupons have been accepted by receiving points, any further movement of the coupons between coupon issuers and bulk storage points within the county is at the risk of the county CWD. To minimize the risk of loss, coupons should usually be shipped by armored car, armored vehicle, armored tractor/trailer, or the Postal Service. Movement of coupons by any of these methods of transportation is normally appropriate because stringent security is applied and the risk of loss is usually borne by the carrier.

Amend Sections 63-706.11, .111, .112, .14, .15, and .16; and .3 as shown:

63-706 ATP/HIR RECONCILIATION

63-706

.1 Reconciliation

- .11 In ATP issuance systems, the county CWD shall verify the number of transacted ATPs received from the coupon issuers and the total value of documented coupon issuances. (See Section 63-706.3 for more details on processing and reconciliation of executed ATP cards.)
 - .111 ATP batches not reconciled shall be maintained intact by the county CWD until the discrepancy is resolved with the coupon issuer.
 - .112 Following receipt and verification of the final batch of ATPs for the month, the county CWD shall determine the total value of authorized issuances for each coupon issuer. Any expired or out-of-county or state ATPs shall be handled as coupon issuer errors and shall not be reported as documented issuances. (See Section 63-706.4.)
- .12 The county CWD shall clearly differentiate between initial, supplemental, and replacement ATP issuances in its accountability system.
- .13 The coupon issuer shall reconcile its issuance on a daily basis.
- .14 Reconciliation of ATPs with the HIR Master File

The county CWD shall post and reconcile all transacted ATPs against the HIR master file. The reconciliation of ATPs shall be accomplished at the level in the county where the HIR was created from the Notices of Change. This posting and reconciliation shall, at a minimum, include for each ATP a comparison of the total coupon allotment. The county CWD shall merge the records of the manually prepared initial, supplemental, and replacement ATP issuances with the HIR master file prior to posting and reconciling the transacted ATPs. Because ATPs issued after the 25th of the month may be redeemed in the following month and because supplemental ATPs may be issued during the month, the county CWD shall establish a mechanism for the redemption and reconciliation of more than one valid ATP in one month.

However, ATPs issued to replace ATPs reported lost or stolen shall be separately identifiable, as the transaction of both the original and replacement ATP represents a duplicate issuance which must be so reported.

.15 Identification of Unreconciled ATPs

The county CWD shall identify all transacted ATPs that are not reconciled with the HIR master file as expired, duplicated, altered, stolen, counterfeit, or out of county. This identification shall be used to establish the liabilities of the county CWD for determination of corrective or claims action.

.16 HIR Reconciliation to the Case Files

In an HIR issuance system, the county CWD shall conduct a semiannual comparison of the active and inactive HIR cards against the case files. At a minimum, 20 percent of both open and closed HIR cards shall be selected at random for the comparison. The county CWD may limit selection of cases for review to those which were active during the previous six months. If the county CWD discovers an HIR card during the review for which a case file cannot be located, the county CWD shall conduct a total review of the active case files. The county CWD shall immediately document and report any discrepancies discovered during the semiannual review to FNS.

.3 Processing Executed ATP Cards

ATP reconciliation must be accomplished as described below unless counties CWDs receive specific written approval from FSPMB-DSS for use of alternative procedures.

Amend Section 63-708.1 and .2 as shown:

63-708 ISSUANCE RECORD RETENTION AND SECURITY

63-708

.1 Availability of Issuance Records

The county CWD shall maintain issuance records for a period of three years from the month of origin. This period may be extended at the written request of FNS.

.11 Issuance records shall include, at a minimum: Notices of change, HIR cards, inventory records, transacted ATPs or similar authorizing documents, Forms FNS 250, and substantiating documents, cashier's daily reports, receptionist's daily tally sheets, and the HIR master file.

.12 In lieu of the records themselves, microfilm, microfiche, or computer tapes may be maintained, as long as they are easily retrievable for audit review purposes.

.2 Control of Issuance Documents

The county CWD shall control all issuance documents which establish household eligibility while the documents are transferred and processed within the county. The county CWD shall use numbers, batching, inventory control logs, or similar controls from the point of initial receipt through the issuance and reconciliation process. The county CWD shall also insure the security and control of ATPs in transit from the manufacturer to the county welfare office.

Amend Sections 63-803.1, .24, and .3, as shown:

63-803 RETURN OF COUPONS

63-803

.1 Refund of Purchase Requirement

In the event of voluntary termination of participation in the program by a household or death of the head of the household, properly issued coupons may be returned to FNS for a refund on the same ratio of cash to coupons as was applied by the county CWD in the issuance of the coupons to the household.

.2 Filing Refund Request (Continued)

.24 Shall have the unused coupons attached. The county CWD shall also provide a copy of the refund request to the household as a receipt for the coupons.

.3 FNS Payments

Counties CWDs shall forward all claims to FNS for payment.

Amend Sections 63-804.2, .3, .4, .5, .641, and .7; and renumber Section 63-804.631 to .641, .641 to .642, and .642 to .643 as shown:

63-804 STATE HEARINGS (Continued)

63-804

- .2 Notification of right to request hearing. At the time of application, each household shall be informed in writing of its right to a hearing, of the method by which a hearing may be requested, and that its case may be presented by a household member or a representative, such as a legal counsel, a relative, a friend or other spokesperson. In addition, at any time the household expresses to the county CWD that it disagrees with a county CWD action, it shall be reminded of the right to request a state hearing. If there is an individual or organization available that provides free legal representation in the county, the household shall also be informed of that service.
- .3 Hearing request. A request for a hearing is defined as a clear expression, oral or written, by the household or its representative to the effect that it wishes to appeal a decision or that an opportunity to present its case to a higher authority is desired. If it is unclear from the household's request what action it wishes to appeal, the county CWD may request the household to clarify its grievance. The freedom to make a request for a hearing shall not be limited or interfered with in any way.
- .4 Agency conferences. The county CWD shall offer agency conferences to households which wish to contest a denial of expedited service under the procedures in 63-301.5. The county CWD may also offer an agency conference to households adversely affected by an agency action. The county CWD shall advise households that use of an agency conference is optional and that it shall in no way delay or replace the state hearing process. The agency conferences may be attended by the eligibility worker responsible for the agency action, and shall be attended by an eligibility supervisor and/or the agency director, and by the household and/or its representative. An agency conference may lead to an informal resolution of the dispute. However, a state hearing must still be held unless the household makes a written withdrawal of its request for a hearing.
- .41 An agency conference for households contesting a denial of expedited service shall be scheduled within two working days, unless the household requests that it be scheduled later or states that it does not wish to have an agency conference.

•5 Time period for requesting hearing. A household shall be allowed to request a hearing on any action by the county CWD or loss of benefits which occurred within the prior 90 days. In addition, at any time within a certification period a household may request a state hearing to dispute its current level of benefits.

•6 Continuation of Benefits (Continued)

•64 Changes Pending the Hearing Decision

•63±41 Any monthly reporting household whose benefits have been continued shall continue to file monthly reports (CA 7) until the end of its certification period.

•64±2 Once continued or reinstated, benefits shall not be reduced or terminated prior to the receipt of the official hearing decision, unless any of the situations specified in Sections 63-804.64±2(a) through (f) occurs while the hearing decision is pending:

•64±23 The CWD shall notify the household as specified in Section 63-504.261 whenever benefits are reduced or terminated pending the hearing decision.

•7 Timely Action on Hearing Decisions

Decisions which result in an increase in household benefits shall be reflected in the coupon allotment within 10 days of the receipt of the hearing decision even if the county CWD must provide a supplementary ATP or otherwise provide the household with an opportunity to obtain the allotment outside of the normal issuance cycle. However, the county CWD may take longer than 10 days if it elects to make the decision effective in the household's normal issuance cycle, provided that the issuance will occur within 60 days from the household's request for the hearing. Decisions which result in a decrease in household benefits shall be reflected in the next scheduled issuance following receipt of the hearing decision.

FACE SHEET
(OAL-4)

85-0215-5E
(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

ORD 0185-06

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LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services

(AGENCY)

BY:

(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED
In the office of the Secretary of State
of the State of California

FEB 21 1985

At 4:13 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Mayoria Heishberg*
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Angie Teixeira/Jerry Demorest

TELEPHONE

323-0884

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: 43-119.2

SECTIONS ADOPTED

43-119.213, .214, .22, .23, .231, .232 and .233

SECTIONS REPEALED

3. TYPE OF ORDER (CHECK ONE)

☐ Regular

☒ Emergency
(Attach Finding of Emergency)

☐ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

4. IS THIS ORDER A RESUBMITTAL OF A PREVIOUSLY DISAPPROVED OR WITHDRAWN REGULATION?

☒ No

☐ Yes, if yes give date of previous filing

5. IS THIS FILING A RESULT OF THE AGENCY'S REVIEW OF EXISTING REGULATIONS?

☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES, CHECK THE APPROPRIATE BOX OR BOXES.

☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPPC Approval Stamp)

☐ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

January 18, 1985

b. DATE OF ADOPTION OF REGULATION(S)

February 13, 1985

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS ON REVERSE)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☒ Effective on January 18, 1985 as required by statutes: (list) Statutes 1984, Chapter 1447
(Section 14)

c. ☒ Effective on filing (Designate effective date **earlier than** 30 days after filing with the Secretary of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of State.)

INSTRUCTIONS FOR STD 400
(OAL-4)

A completed Face Sheet for Filing Regulations With the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer authorized to submit regulations.

Part 1. Provide agency name and signature of the agency officer. Also provide the name and telephone number of the person who can answer questions regarding this regulatory filing.

Part 2. Provide the Administrative Code Title in which the regulation will appear and list each section number to be amended, adopted, or repealed.
(Attach additional sheets if necessary.)

Part 3. Check appropriate box. If other than a regular or emergency filing or certificate of compliance, check the appropriate box under "Other Regulatory Action." Note: Procedural and organizational changes, editorial corrections and authority and reference citation changes are reviewed and are subject to OAL approval.

Part 4. Check appropriate box.

Part 5. Regulatory activity resulting from the agency's review of existing regulations should be submitted in a separate filing. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.

Part 6. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:

- a. Fire and panic safety regulations (Gov. Code Sec. 11342.3).
- b. Building standards as defined in Section 18969 of the Health and Safety Code (Gov. Code Sec. 11343).
- c. Conflict of Interest regulations (Gov. Code Sec. 87300 et seq.).

Note: Regulations that have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts should be discussed with the Department of Finance. See Government Code Sections 11346.5(a) (6), 11349.1 and S.A.M. Sections 6050-6057.

Part 7. a. Provide the publication date of the Notice Register in which the initial notice regarding these regulations appeared.

b. Provide the date on which the regulatory agency adopted the regulation(s).

c. If the regulations were modified subsequent to the hearing or written comment period, provide the date the modified regulations were made available to the public. Note that this date must be at least 15 days prior to the date indicated in (b.) above.

Part 8. Check appropriate box. This information is for statistical purposes.

Part 9. Effective Dates—check one of the following:

- a. If regulations are to be effective 30 days after filing with the Secretary of State.
- b. If an effective date other than (a.) is required by statute, provide the date and the statutory citation(s).
- c. If a designated effective date is being requested, please include a letter specifying the date the regulation(s) should take effect and the reason for the earlier effective date. Requests are granted by OAL for good cause shown.
- d. If an effective date later than (a.) is requested, provide the date.

Filing Requirements

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline/strikeout to indicate changes in an existing section. Repeal of an entire section may be indicated by placing a diagonal slash through text. For adoption of new section, underscore is not required.
- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

Amend MPP Section 43-119.2 and readopt MPP Sections 43-119.213, .214, .22, .23, .231, .232 and .233 to read:

43-119 SPONSORED ALIENS (Continued)

43-119

.2 Individual Sponsors (Continued)

.21 The provisions of 43-119.2 apply only to aliens:
(Continued)

.213 who apply for AFDC for the first time after September 30, 1981; and

.214 For a period of three years from the date established by Immigration and Naturalization Service as the date of entry for permanent residence.

.22 The income and resources of the sponsor who is not receiving AFDC, SSI or other public cash assistance payments (such as General Assistance) and the income and resources of the sponsor's spouse who lives with him/her and who is not receiving such public assistance payments shall be deemed to be the income and resources of the sponsored alien. See Sections 44-133.10 for the determination of the amount of this income, and Section 42-205.5 for the determination of the amount of resources.

.23 As a condition of eligibility, the sponsored alien has the following responsibilities:

.231 To provide upon county request, information and documentation concerning his/her sponsor which may be necessary to make the determination under Section 44-133.10 and Section 42-205.5; and information and documentation which the alien and his/her sponsor provided in support of the alien's immigration application.

.232 To obtain the cooperation from his/her sponsor which is necessary to make the determination under Section 44-133.10 and Section 42-205.5.

.233 To comply with reporting requirements specified in Section 40-181.25.

Authority: Welfare and Institutions Code Sections 10554 and
10604.

Reference: Welfare and Institutions Code Section 11008.13; 45
CFR 233.51.

FACE SHEET
(OAL-4)

85-0128-2
(See Instructions on reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

OAL File No. 84-0927-3
ORD #0884-37 "Cert"
and Final Modifications

RECEIVED FOR FILING
JAN 28 1 44 PM '85

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

FEB 28 1985

Office of Administrative Law
LEAVE BLANK

1. ATTACHED ARE REGULATIONS ADOPTED,
AMENDED OR REPEALED BY:

Department of Social Services
(AGENCY)

BY: Linda S. McMahon
(AGENCY OFFICER AUTHORIZED TO SUBMIT REGULATIONS)

FILED

In the office of the Secretary of State
of the State of California

FEB 28 1985

At 4:22 o'clock P. M.

MARCH FONG EU, Secretary of State

By Margaret Hershberger
Deputy Secretary of State

LEAVE BLANK

AGENCY CONTACT PERSON AND POSITION

Jerry Demorest or Diane Moritz Glazer

TELEPHONE

445-0313

2. Indicate California Administrative Code Title and specify sections to be amended, adopted, and/or repealed:

SECTIONS AMENDED

Title: 44-101.32 Introductory Paragraph and .527; 44-111.212; .224; .241 and .242; 44-113.214,
SECTIONS ADOPTED .61(e) and (h) and .622(c).

SECTIONS REPEALED

40-181.243 (a)

3. TYPE OF ORDER (CHECK ONE)

☒ Regular

☐ Emergency
(Attach Finding of Emergency)

☒ Certificate of Compliance

Other Regulatory Actions:

☐ Procedural and Organizational
Change

☐ Editorial Correction

☐ Authority and Reference
Citation Change

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☐ Yes, if yes give date of previous filing _____

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☒ No

☐ Yes

6. IF THESE REGULATIONS REQUIRED PRIOR REVIEW AND APPROVAL BY ANY OF THE FOLLOWING AGENCIES,
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☐ State Fire Marshal
(Attach Approval)

☐ Building Standards Comm.
(Attach Approval)

☐ Fair Political Practices Comm.
(Include FPCC Approval Stamp)

☒ Department of Finance
(Attach STD. Form 399)

7a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF ADOPTION OF REGULATION(S)

c. DATES OF AVAILABILITY OF MODIFIED
REGULATION(S) (GOV. CODE SEC. 11346.8(c))
From January 11, 1985 through
January 25, 1985 inclusive

45 Day Notice: October 12, 1984
15 Day Renote: January 11, 1985

January 23, 1985

8. WAS THIS REGULATORY ACTION SCHEDULED ON YOUR AGENCY RULEMAKING CALENDAR?

☒ No

☐ Yes

9. EFFECTIVE DATE OF REGULATORY CHANGES: (SEE GOVERNMENT CODE SECTION 11346.2 AND INSTRUCTIONS
ON REVERSE)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective on _____ as required by statutes: (list) _____

c. ☐ Effective on _____ (Designate effective date **earlier than** 30 days after filing with the Secretary
of State pursuant to Government Code Section 11346.2(d).)

☐ Request Attached

d. ☐ Effective on _____ (Designate effective date **later than** 30 days after filing with the Secretary of
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(OAL-4)

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(Attach additional sheets if necessary.)

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- A completed Face Sheet for Filing Regulations With the Office of Administrative Law, form STD 400 (OAL-4) attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Government Code Section 11347.3 for full list of rulemaking file contents and Appendix 13 of OAL Regulations Handbook for a rulemaking file checklist.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Sections 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on September 27, 1984, and which became effective on October 1, 1984.

Manual of Policy and Procedures, Divisions 40, 42, 43, and 44, Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
40-181.243(a)***	42-213.11K and .2K**	44-101.3 Intro.
42-211.253*	44.111.24 and .47(*)(**)	Paragraph, .321,
42.213.2d	44-113.217 and .624	.323 and .324
43-201.3**		44-113.214(a) and (b)
44-101.32*** - .325(*,)(***)		
.3, and .527***		
44-111.21***, .224,*** .232		
.232, .232(a), .24,***		
and .3c(1)		
44-113.211, .214,***		
.217, .218, .22*,		
and .7**		
44-133.31**, .631(a),		
.91, and .93		
44-207.113, .121,		
and .2**		
44-352.121		

* This Certificate of Compliance applies also to editorial corrections to Sections 42-211.2; 44-113.622c [formerly 44-101.325(b)(2)(D)]; and new 44-113.624c; 44-111.471; and 44-113.22 filed with the Secretary of State November 1, 1984 (see rulemaking file, exhibit M-3).

** Sections 42-213.2k; 43-201.3, .32, and .33; 44-111.47; 44-113.7; 44-133.314, and 44-207.211(b) were further amended effective January 18, 1985 in a separate set of SDSS regulations entitled "ORD #1184-58/DEFRA 2". For identification purposes, all overlapping "DEFRA 2" revisions in these sections have been enclosed in brackets (see

rulemaking file, Exhibit M-4). This certification applies to all revisions in these sections which were adopted by emergency effective October 1, 1984 and which are not enclosed in brackets. Bracketed, ORD #1184-58 revisions will be certified after the Departments March 6, 7, and 8, 1985 public hearing of these specific revisions.

*** As a result of the Department's November 28, 1984 public hearing of these regulations, the following sections have been revised in response to public comment and at the Department's instance. For identification purposes, these final modifications are depicted in strike-out and underline (see rulemaking file, Exhibit M-4).

Amended

Adopted

Repealed

44-101.32 Intro.

40-181.243(a)

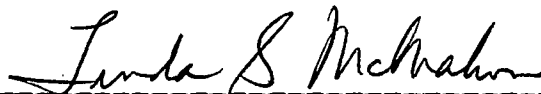
Paragraph

44-101.527

44-111.212, .224, .241, and .242

44-113.214

44-113.61(e), (h) and .622(c)



LINDA S. McMAHON
Director

1/23/85
Date

(1FM) Repeal MPP Section 40-181.243(a) to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF ELIGIBILITY 40-181
(Continued)

.2 Periodic Determination of Eligibility (Continued)

.24 Criteria for Evaluating Information Reported on the CA
7. (Continued)

.243 The following information or evidence shall be provided before the appropriate deduction or disregard from earnings is allowed: (Continued)

(a) A standard work expense disregard shall be allowed when information provided is sufficient to determine that the recipient was employed at some time during the month (see Section 44-113.214).

Authority: Welfare and Institutions Section 10553; AB 1557, Stats 1984, Chapter 1447, Section 14.

Reference: Public Law No. 98-369, Section 2622 (July 18, 1984) 98 Stat. 1134, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 602(a)(8)(A)(ii)]; 49 Federal Register 35601 (1984) [codified in 45 CFR 233.20(a)(11)(i)(B)].

(2) Amend MPP Section 42-211.253 to read:

42-211 PROPERTY ITEMS TO BE INCLUDED IN EVALUATING PROPERTY 42-211
WHICH MAY BE RETAINED (Continued)

•2 Personal Property to be Included (Continued)

•25 All Other Personal Property Including: (Continued)

•253 The net market value of funeral agreements not
exempted from evaluation as personal property
under Section 42-213.2d.

Authority: Welfare and Institutions Code Section 10553.

Reference: AB 1557, Stats 1984, Chapter 1447 [codified as
Welfare and Institutions Code Section 11158];
Public Law 98-369, Section 2626, (July 18, 1984)
98 Stat. 1136, 1984 U.S. Code Congressional and
Administrative News, No. 6A [codified as 42 USC
602(a)(7)(B)]; 49 Federal Register 35599 (1984)
[codified in 45 CFR 233.20(a)(3)(i)(4)].

(3) Adopt new MPP Section 42-213.11k to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING
PROPERTY WHICH MAY BE RETAINED

42-213

.1 Real Property To Be Excluded

.11 The following items are to be excluded in evaluating
real property: (Continued)

- k. A maximum of one burial plot for each member of
the assistance unit. For purposes of this
section, a burial plot is defined as an interment
space, crypt or niche intended for the interment
of the applicant or recipient.

Authority: Welfare and Institutions Code Section 10553.

Reference: AB 1557, Stats. 1984, Chapter 1447 (codified in
Welfare and Institutions Code Section 11158);
Public Law No. 98-369, Section 2626 (July 18,
1984) 98 Stat. 1136, 1984 U.S. Code Congressional
and Administrative News, No. 6A [codified as 42
USC 602(a)(7)(B)]; 49 Federal Register 35599
(1984) [codified in 45 CFR 233.20(a)(3)(i)(3)].

(4) Amend MPP Section 42-213.2d and adopt Section 42-213.2k to read:

42-213 PROPERTY ITEMS TO BE EXCLUDED IN EVALUATING 42-213
PROPERTY WHICH MAY BE RETAINED (Continued)

•2 Personal Property to be Excluded (Continued)

d. The following funeral agreements:

- (1) Money or securities placed in an irrevocable trust for funeral, cremation or interment expenses with any of the trustees mentioned in Section 7736 of the Business and Professions Code.

An irrevocable trust, within the meaning of this section is a written agreement between the applicant or recipient and the trustee(s) which expressly provides that the trust agreement is irrevocable, and that the trustee obligates himself to apply the money held in trust for the funeral, cremation or interment of the applicant or recipient.

Trustees mentioned in Section 7736 of the Business and Professions Code are limited to:

- (a) A banking institution or trust company legally authorized and empowered by the State of California to act as trustee in the handling of trust funds.

or

- (b) Not less than three persons, one of whom may be an employee of the funeral director who is entering into a Preneed Funeral Arrangement as provided in Business and Professions Code Sections 7735 through 7742.

- (2) Life or burial insurance purchased specifically for funeral, cremation or interment expenses which is placed in an irrevocable trust or which has no loan or cash value available to the insured during his lifetime. Included are:

- (a) An insurance policy on the life of the applicant payable to a beneficiary who has

irrevocably agreed to apply the proceeds from the insurance for funeral, cremation or interment of the insured.

- (b) An insurance policy which is payable on death to the estate of the insured and thus, in effect, becomes a resource earmarked for burial.
- (3) Securities by a licensed cemetery authority which by their terms are convertible only into payment for funeral, cremation or interment expenses.
- (4) Money or securities placed by the applicant or recipient in an insured savings institution as an irrevocable trust with the applicant or recipient as trustee for the provision of funeral services upon the applicant's or recipient's death.
- (5) One other bona fide funeral agreement for each member of the assistance unit not to exceed \$1,500. If the net market value exceeds \$1,500, the excess over \$1,500 shall be treated as a resource included in the property limit described in Section 42-207. For purposes of this section, other bona fide funeral agreements are defined as preneed funeral agreements between the applicant or recipient and a licensed cemetery authority or licensed funeral director for funeral, cremation, or interment services. (Continued)

.2 Personal Property to be Excluded (Continued)

- k The first \$50 of current child[/spousal] support disregarded as income under Section 44-111.47 shall be excluded both during the month it is received by the county and when it is received by the assistance unit, if different.

Authority: Welfare and Institutions Code Section 10553; AB 1557, Stats. 1984, Chapter 1447, Section 14.

Reference: AB 1557, Stats. 1984, Chapter 1447 (codified in Welfare and Institutions Code Section 11158); Public Law No. 98-369, Sections 2626, 2640 (July 18, 1984), 98 Stat. 1136, 1145, 1984 U.S. Code Congressional and Administrative News, No. 6A

[codified as 42 USC 602(a)(7)(B) and 42 USC 675(b)]; 49 Federal Register 35599, 35600 (1984) [codified in 45 CFR 233.20(a)(3)(i)(4), 45 CFR 232.20 and 45 CFR 233.20(a)(4)(ii)(j)].

- * The revisions enclosed in brackets in 42-213.2k were adopted via separate Department of Social Services (DSS) emergency regulations entitled "ORD 1184-52/DEFRA 2" effective January 18, 1985. See Item 1 of the DSS Notice of March 6, 7, and 8, 1985 Public Hearing (January 18, 1985 edition of the California Administrative Notice Register).

(5) Amend MPP Section 43-201.3 Introductory Paragraph, .32 and .33 to read:

43-201 CHILD AND SPOUSAL SUPPORT AND PATERNITY (Continued) 43-201

.3 Child and Spousal Support Collections (Continued)

When support payments are made the county welfare department shall determine the effect of those payments on the eligibility of the AFDC recipient family. [This section deals only with the determination of financial eligibility where a support payment has been made to the District Attorney or some other county agency or where the recipient has received the support payment and forwarded it to the appropriate agency. .31] If a recipient has received a support payment directly from an absent parent and he or she does not send the payment to a county agency [as required under Section 43-107.26], the welfare department [shall] notify the District Attorney (Section 43-201.215) and treat the payment as [unearned income in the month received follows:]

[.32.31] (Continued)

[.33.32] When the welfare department receives a notice of collection [amount and disregard computation] (.31 above), it shall redetermine the AFDC recipient family's eligibility in accordance with Section 44-207. This means that the amount of the collection on the current support obligation, after allowing the disregard in Section 44-111.47, will be used in estimating financial eligibility.

[.32.31] (Continued)

[.32.32] (Continued)

[.33.34] When the child[/spousal] support collection is distributed under Section 43-203, certain payments will be made to the family.

[.33.342] Any payment made to the family [under Sections 43-207.13 and .15] from child[/spousal] support collected in any month is considered available income in the month received [except as specified in 44-111.47].

(5) Amend MPP Section 43-201.3 Introductory Paragraph, .32 and .33 to read:

43-201 CHILD AND SPOUSAL SUPPORT AND PATERNITY (Continued) 43-201

.3 Child and Spousal Support Collections (Continued)

When support payments are made the county welfare department shall determine the effect of those payments on the eligibility of the AFDC recipient family. [This section deals only with the determination of financial eligibility where a support payment has been made to the District Attorney or some other county agency or where the recipient has received the support payment and forwarded it to the appropriate agency. .31] If a recipient has received a support payment directly from an absent parent and he or she does not send the payment to a county agency [as required under Section 43-107.26], the welfare department [shall] notify the District Attorney (Section 43-201.215) and treat the payment as [unearned income in the month received follows:]

[.32+.31] (Continued)

[.33+.32] When the welfare department receives a notice of collection [amount and disregard computation] (.31+.32 above), it shall redetermine the AFDC recipient family's eligibility in accordance with Section 44-207. This means that the amount of the collection on the current support obligation, after allowing the disregard in Section 44-111.47, will be used in estimating financial eligibility.

[.32331] (Continued)

[.32332] (Continued)

[+33.34] When the child[/spousal] support collection is distributed under Section 43-203, certain payments will be made to the family.

[+33+.342] Any payment made to the family [under Sections 43-207.13 and .15] from child[/spousal] support collected in any month is considered available income in the month received [except as specified in 44-111.47].

Authority: Welfare and Institutions Code Section 10553; AB 1557, Stats. 1984, Chapter 1447, Section 14.

Reference: AB 1557, Stats. 1984, Chapter 1447 [codified in Welfare and Institutions Code Section 11158]; Public Law No. 98-369, Section 2640 (July 18, 1984), 98 Stat. 1145, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 675(b)]; 49 Federal Register 35600 (1984) [codified in 45 CFR 232.20 and 45 CFR 233.20(a)(4)(ii)(j)].

* The revisions enclosed in brackets were adopted via separate Department of Social Services (DSS) emergency regulations entitled "ORD 1184-52/DEFRA 2" effective January 18, 1985. See Item 1 of the DSS Notice of March 6, 7, and 8, 1985 Public Hearing (January 18, 1985 edition of the California Administrative Notice Register).

(6FM) Amend MPP Section 44-101.32 through .324 to read:

44-101 INCOME DEFINITIONS (Continued)

44-101

.3 Current Income (Continued)

.32 Current income includes Earned Income Credit (EIC) payments when actually received as advance payments or as a single payment at the end of the tax year. See Section 44-207.4. An individual is considered eligible to receive advance or year-end EIC payments if all of the following conditions are expected to be met or have been met for the tax year.

.321 The amount of his/her yearly "adjusted gross income" (including that of the spouse) is expected to be less than \$11,000 "Adjusted gross income" refers to the amount used for IRS tax purposes; e.g., for 1980 adjusted gross income was reported on Form 1040a, line 11 or on Form 1040, line 31.

.322 The individual is expected to have at least one child living with him/her in the United States for the entire year except when the child is away at school or on vacation. The child must be one of the following:

(1) The individual's child, stepchild, or a child placed with him/her by an authorized placement agency for legal adoption (even if the child becomes the recipient's stepchild or adopted child, or is placed, during the year); or any other child cared for as his/her own child for the whole year, unless the child's natural or adoptive parents provide more than half of the support for that year.

.323 If the individual is married, that a joint tax return is expected to be filed.

.324 If the individual is unmarried or living apart from his/her spouse, that he/she is expected to pay at least half the cost of keeping up his/her household. AFDC payments which are used to pay part of the cost of keeping the household are not counted as amounts furnished by the individual.

- .325 All the earned income is expected to be from sources inside the United States and not eligible for exclusion or exemption as foreign income or income from U.S. possessions.
- .326 Either the individual expects to claim an exemption for the child living with him/her or he/she expects to qualify as head of household for IRS tax purposes.

Authority: Welfare and Institutions Code Sections 10553; AB 1557, Stats 1984, Chapter 1447, Sections 14

Reference: Public Law No. 98-369, Section 2629, (July 18, 1984), 98 Stat. 1137, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 602(d)(1)]; 49 Federal Register 35601 (1984) [codified in 45 CFR 233.20(a)(6)(ix)]

(7) Renumber MPP Section 44-101.325 to 44-113.6 and amend to read:

[(7FM) Amend MPP Section 44-113.61(e) and (h) and .622(c) to read:]

44-113 NET INCOME (Continued)

44-113

.6 Reconciliation of Advanced Earned Income Credit (EIC) to Year-End EIC.

.61 Definitions

- (a) Advanced EIC: The total EIC advanced to the recipient during the tax year. This figure is obtained from the IRS forms W-2, 1040 or 1040A.
- (b) Year-End EIC: The year-end EIC entitlement for the tax year. This figure is obtained from the IRS forms 1040 or 1040A.
- (c) Year-End EIC Payment: The payment made to the taxpayer when the year-end EIC is greater than the amount of the advanced EIC.
- (d) Actual Advance EIC: The EIC actually received by the individual on a monthly basis during the tax year.
- (e) Assumed EIC: The monthly EIC used by the county to determine the AFDC grant when the individual would be eligible to receive advance EIC payments, but has not applied or is not yet receiving them. EIC payments shall not be assumed for payment months after September 30, 1984.
- (f) Year-End EIC attributable to AFDC: That portion of the year-end EIC attributable to the individual's term as an employed AFDC recipient for (or during) the tax year. For purposes of this definition, the term "on aid" means the number of months on aid.
- (g) For the tax year: The actual advance EIC, assumed EIC, and earnings received by the recipient during the calendar year. Disregards will be considered as applied to such income in the month of receipt, even though the corresponding payment month falls outside the calendar year.

(h) Reconciliation: The method by which the recipient:

- (1) is compensated for AFDC benefits lost due to the overcounting of actual advance EIC, or
- (2) has his/her countable year-end EIC payment adjusted by the amount of actual assumed EIC received for the 1984 tax year.

.62 Reconciliation Methodology

.621 If the total amount of actual advance EIC which was counted in determining the recipient's net nonexempt earned income received during the tax year differs from the year-end EIC, reconciliation is required. Reconciliation and payment of any resulting EIC adjustment shall be made to current recipients only.

- (a) The recipient is responsible for providing all information and documentation necessary to complete the reconciliation computation. Such information includes, but is not limited to, the recipient's income tax return (IRS form 1040 or 1040A) and/or any tax refund check received. If the recipient fails to provide necessary documentation, then reconciliation shall not be made.

.622 If the tax return shows that the year-end EIC is greater than the advanced EIC and the recipient is entitled to any payment from the Internal Revenue Service (IRS), the following reconciliation shall be made after such payment is actually received from the IRS.

- (a) If the recipient receives a payment from the IRS for the previous tax year, the county shall segregate that portion of the payment which represents the year-end EIC payment from the tax refund. That portion shall be treated as lump sum earned income in the month received (see Section 44-207.4).
- (b) If the recipient fails to provide necessary documentation [see MPP Section 44-113.621(a) above] and the county cannot

establish the amount of the year-end EIC payment, the entire amount of the payment received from the IRS shall be considered an income tax refund.

(c) Example:

- The year-end EIC payment is \$500.
- The wife worked for one month during the tax year and is not working when the payment is received.
- The husband received the 30 and 1/3 disregard for four months and is employed full-time earning \$600/month when the year-end EIC payment is received. Two hundred dollars (\$200) EIC was advanced for the tax year based on the husband's earnings.
- Both the husband and the wife are members of the FBU when the year-end EIC payment is received.

	WIFE	HUSBAND
Share of EIC*	\$250	\$250
Minus Advanced EIC	- 0	-288
Plus Other Earnings	+ 0	+600
Subtotal	\$250	\$6850
Minus Standard Work Expense Disregard**	- 0	- 75
Minus Dependent Care Disregard (no expense)	- 0	- 0
Minus 30 and 1/3 Disregard***	-103	- 0
Subtotal	\$147	\$5775
Plus Unearned Income	+ 0	+ 0
Net Nonexempt Income	\$147	\$5775
Husband	\$5775	
Wife	+147	
	\$7922	Total net nonexempt income for use in the lump sum computation in Section 44-207.4

* Year-end EIC is split between the husband and wife when both were earners in the tax year. If only one spouse worked during the tax year, the year-end EIC is attributable only to that earner.

** The standard work expense disregard is applied only when other earned income is received at the time EIC is received.

*** The \$30+1/3 and, as applicable, the \$30 disregard is applied only if there is eligibility to the disregard when the EIC is received.

.623 If the tax return shows that the year-end EIC is less than the advanced EIC, a prompt reconciliation shall be made as follows:

(a) Determine whether the year-end EIC attributable to AFDC is greater than the

total amount of advance EIC counted as income for AFDC purposes for the tax year. This is determined as follows:

- (1) Obtain the monthly entitlement by dividing the year-end EIC (as listed on IRS form 1040 or 1040A) by the total number of months in the tax year during which the recipient had earnings.
 - (2) Multiply the monthly entitlement above by the number of months the recipient had earnings while on aid during the tax year in order to obtain the year-end EIC attributable to AFDC.
 - (3) If the year-end EIC attributable to AFDC is greater than the total actual advance EIC counted as income to the FBU for the tax year, no further reconciliation is necessary.
- (b) When the year-end EIC attributable to AFDC is less than the total actual advance EIC counted as income to the FBU for the tax year, reconciliation shall be made as follows:
- (1) Subtract the year-end EIC attributable to AFDC [as determined in .623 (a)(2) above] from the total actual advance EIC payments counted as income to the FBU for the tax year.
 - (2) Divide the remainder above by the number of months advance EIC payments were received for AFDC for the tax year to obtain the maximum monthly adjustment.
 - (3) Multiply the maximum monthly AFDC adjustment above by the number of months for the tax year in which the $\frac{1}{3}$ and $\frac{1}{3}$ disregard was applied to actual advance EIC payments.
 - (4) Multiply the amount above by $\frac{2}{3}$.

- (5) Multiply the maximum monthly AFDC adjustment in (2) above by the number of months for the tax year in which actual advance EIC payments were considered income for AFDC purposes but the \$30 and 1/3 disregard was not applied.
- (6) Add the amounts in (4) and (5) above to determine lost AFDC benefits to be adjusted.
- (7) The amount in (6) above shall be issued as an EIC adjustment payment.

(c) Example: Computation of the EIC adjustment payment

Computation Factors

- Recipient was employed 9 months in the tax year.
- Recipient received AFDC during 7 of the 9 months he/she was employed during the tax year.
 - The \$30 plus 1/3 disregard was applied in 4 months while aided.
 - The \$30 plus 1/3 disregard was not applied in 3 months while aided.
- Actual advanced EIC counted in the computation of the recipient's aid payments for the tax year totaled \$300.
- Recipient's 1040 or 1040A for the tax year indicated:
 - Year-end EIC \$350
 - Advanced EIC \$400

Computation Steps

Determination of whether EIC counted for AFDC during the tax year (\$300) was greater than the year-end EIC attributable to AFDC:

$$(1) \quad \frac{\$350 \text{ [year-end EIC]}}{9 \text{ months [months of earnings]}} = \$38.89 \text{ [monthly EIC entitlement]}$$

[see 44-113.623(a)(1)]

$$(2) \quad \$38.89 \times 7 = \$272.22$$

[monthly EIC entitlement] [months of earnings while aided] [year-end EIC attributable to AFDC]

[see 44-113.623(a)(2)]

$$(3) \quad \$300 - \$272.22 = \$27.78$$

[EIC counted in AFDC grants in the tax year] [year-end EIC attributable to AFDC] [overcounted EIC]

[see 44-113.623(b)(1)]

If the EIC counted in the computation of AFDC payments during the tax year (\$300) exceeds the year-end EIC attributable to AFDC (\$272.22), compute the EIC adjustment payment as follows:

$$(4) \quad \frac{\$27.78 \text{ [overcounted EIC]}}{7 \text{ [months of EIC payments [maximum monthly considered while aided] adjustment]}} = \$3.97$$

[see 44-113.623(b)(2)]

$$(5) \quad \begin{array}{l} \$ 3.97 \\ \text{[maximum} \\ \text{monthly} \\ \text{adjustment]} \end{array} \times \begin{array}{l} 4 \\ \text{[number of aided} \\ \text{months the \$30} \\ \text{\& 1/3 disregard} \\ \text{applied to} \\ \text{advance EIC} \\ \text{payments]} \end{array} = \$15.87 \text{ [total 5]}$$

[see 44-113.623(b)(3)]

$$(6) \quad \begin{array}{l} \$15.87 \\ \text{[total (5)]} \end{array} \times \frac{2}{3} = \$10.63 \text{ [total (6)]}$$

[see 44-113.623(b)(4)]

$$(7) \quad \begin{array}{l} \$ 3.97 \\ \text{[maximum} \\ \text{monthly} \\ \text{adjustment]} \end{array} \times \begin{array}{l} 3 \\ \text{[number of aided} \\ \text{months the \$30} \\ \text{\& 1/3 disregard} \\ \text{not applied to} \\ \text{advance EIC} \\ \text{payments]} \end{array} = \$11.91 \text{ [total (7)]}$$

[see 44-113.623(b)(5)]

$$(8) \quad \begin{array}{l} \$10.63 \\ \text{[total (6)]} \end{array} + \begin{array}{l} \$11.91 \\ \text{[total (7)]} \end{array} = \$22.54 \text{ [EIC adjustment payment]}$$

[see 44-113.623(b)(6)]

.624 The following methodologies shall be used for the reconciliation of advance EIC (actual and assumed) to year-end EIC for the tax year 1984 when any EIC payments were assumed received for the months of January 1984 through September 1984 and were

counted in determining the recipient's net nonexempt earned income. EIC payments shall not be assumed after September 30, 1984. If no EIC payments were assumed during tax year 1984, use the reconciliation methodology in .622 and .623 above.

(a) If the recipient fails to provide the necessary documentation for the following calculations, reconciliation shall not be made.

(b) If the tax return shows that the year-end EIC is greater than the advance EIC (actual and assumed), the county shall deduct the total advance EIC used in the grant computations for the tax year 1984 from the 1984 year-end EIC payment. The remainder is lump sum earned income in the month received. See Section 44-207.4.

(c) Example:

- The year-end EIC payment is \$500.
- The wife worked for one month during the tax year and is not working when the payment is received.
- The husband received the 30 and 1/3 disregard for four months and is employed full-time earning \$600/month when the year-end EIC payment is received. Two hundred dollars (\$200) EIC was assumed for the tax year based on the husband's earnings.
- Both the husband and the wife are members of the FBU when the year-end EIC payment is received.

	WIFE	HUSBAND
Share of EIC*	\$250	\$250
Minus Assumed EIC	- 0	-200
Plus Other Earnings	+ 0	+600
Subtotal	\$250	\$650
Minus Standard Work Expense Disregard**	- 0	- 75
Minus Dependent Care Disregard (no expense)	- 0	- 0
Minus 30 and 1/3 Disregard***	-103	- 0
Subtotal	\$147	\$575
Plus Unearned Income	+ 0	+ 0
Net Nonexempt Income	\$147	\$575
Husband	\$575	
Wife	+147	

\$722 Total net nonexempt
income for use in
lump sum computation
in Section 44-207.4

- * Year-end EIC is split between the husband and wife when both were earners in the tax year. If only one spouse worked during the tax year, the year-end EIC is attributable only to that earner.
- ** The standard work expense disregard is applied only when other earned income is received at the time EIC is received.
- *** The \$30+1/3 disregard is applied only if there is eligibility to the disregard when the EIC is received.

- (d) If the 1984 tax return shows that the year-end EIC is less than the advance EIC

(actual and assumed) reconciliation shall be as follows:

- (1) Subtract the year-end EIC attributable to AFDC [as determined from the methodology described for actual EIC in .623(a) above] from the total advance EIC payments counted as income to the assistance unit for the 1984 tax year.
- (2) Divide the remainder above by the number of months advance EIC payments were received or assumed for AFDC for the 1984 tax year to obtain the maximum monthly adjustment.
- (3) Multiply the maximum monthly AFDC adjustment above by the number of months for the 1984 tax year in which the \$30 and 1/3 disregard was applied to the advance EIC payments.
- (4) Multiply the amount above by 2/3.
- (5) Multiply the maximum monthly AFDC adjustment in (2) above by the number of months for the 1984 tax year in which advance EIC payments were considered income for AFDC purposes but the \$30 and 1/3 disregard was not applied.
- (6) Add the amounts in (4) and (5) above to determine lost AFDC benefits to be adjusted.
- (7) The amount in (6) above shall be issued as an EIC adjustment payment.
- (8) Example: Computation of the EIC adjustment payment

Computation Factors

- Recipient was employed 9 months in the 1984 tax year.

- Recipient received AFDC during 7 of the 9 months he/she was employed during the tax year.

- The \$30 plus 1/3 disregard was applied in 4 months while aided.

- The \$30 plus 1/3 disregard was not applied in 3 months while aided.

- Advance EIC (assumed and actual) counted in the computation of the recipient's aid payments for the 1984 tax year totaled \$300.

- Recipient's 1040 or 1040A for the 1984 tax year indicated.

- Year-end EIC \$350

- Advance EIC \$400

Computation Steps

Determination of whether EIC counted for AFDC during the 1984 tax year (\$300) was greater than the year-end EIC attributable to AFDC:

$$(1) \quad \begin{array}{l} \$350 \text{ [year-end EIC]} \\ 9 \text{ months [months of earnings]} \end{array} = \begin{array}{l} \$38.89 \\ \text{[monthly EIC entitlement]} \end{array}$$

[see 44-113.623(a)(1)]

$$(2) \quad \begin{array}{l} \$38.89 \\ \text{[monthly EIC entitlement]} \end{array} \times \begin{array}{l} 7 \\ \text{[months of earnings while aided]} \end{array} = \begin{array}{l} \$272.22 \\ \text{[year-end EIC attributable to AFDC]} \end{array}$$

[see 44-113.623(a)(2)]

$$(3) \quad \begin{array}{l} \$300 \\ \text{[EIC counted in AFDC grants in the tax year]} \end{array} - \begin{array}{l} \$272.22 \\ \text{[year-end EIC attributable to AFDC]} \end{array} = \begin{array}{l} \$27.78 \\ \text{[overcounted EIC]} \end{array}$$

[see 44-113.624(d)(1)]

If the EIC counted in the computation of AFDC payments during the 1984 tax year (\$300) exceeds the year-end EIC attributable to AFDC (\$272.22), compute the EIC adjustment payment as follows:

$$(4) \quad \frac{\$27.78 \text{ [overcounted EIC]}}{7 \text{ [months of EIC payments considered while aided]}} = \$3.97 \text{ [maximum monthly adjustment]}$$

[see 44-113.624(d)(2)]

$$(5) \quad \begin{array}{l} \$ 3.97 \\ \text{[maximum} \\ \text{monthly} \\ \text{adjustment]} \end{array} \times \begin{array}{l} 4 \\ \text{[number of aided} \\ \text{months the \$30} \\ \text{\& 1/3 disregard} \\ \text{applied to} \\ \text{advance EIC} \\ \text{payments]} \end{array} = \$15.87 \text{ [total (5)]}$$

[see 44-113.624(d)(3)]

$$(6) \quad \begin{array}{l} \$15.87 \\ \text{[total (5)]} \end{array} \times \frac{2}{3} = \$10.63 \text{ [total (6)]}$$

[see 44-113.624(d)(4)]

$$(7) \quad \begin{array}{l} \$ 3.97 \\ \text{[maximum} \\ \text{monthly} \\ \text{adjustment]} \end{array} \times \begin{array}{l} 3 \\ \text{[number of aided} \\ \text{months the \$30} \\ \text{\& 1/3 disregard} \\ \text{not applied to} \\ \text{advance EIC} \\ \text{payments]} \end{array} = \$11.91 \text{ [total (7)]}$$

[see 44-113.624(d)(5)]

$$(8) \quad \begin{array}{l} \$10.63 \\ \text{[total (6)]} \end{array} + \begin{array}{l} \$11.91 \\ \text{[total (7)]} \end{array} = \$22.54 \text{ [EIC adjustment payment]}$$

[see 44-113.624(d)(6)]

Authority: Welfare and Institutions Code Sections 10553; AB 1557, Stats. 1984, Chapter 1447, Sections 14

Reference: Public Law No. 98-369, Section 2629 (July 18, 1984), 98, Stat. 1137, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 602(d)(1)]; 49 Federal Register 35601 (1984) [codified in 45 CFR 233.20(a)(6)(ix)]

(8FM) Amend Section 44-101.527 to read:

44-101 INCOME DEFINITIONS (Continued)

44-101

.5 Earned Income (Continued)

.52 Earned income also includes: (Continued)

- .527 An Earned Income Credit (EIC) payment received as a single payment after the end of the tax year (see 44-113.6) or received as advance payment under Section 44-101.32.

Authority: Welfare and Institutions Code Sections 10553; AB 1557, Stats. 1984, Chapter 1447, Sections 14

Reference: Public Law No. 98-369, Section 2629 (July 18, 1984), 98 Stat. 1137, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 602 (d)(1)]; 49 Federal Register 35601 (1984) [codified in 45 CFR 233.20(a)(6)(ix)]

(9FM) Amend MPP Sections 44-111.211 and .212 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME

•2 Exemption of Earned Income (Continued)

•21 Job Training Partnership Act (JTPA) - Earned Income of a Child (Continued)

•211 All earnings of a child (see Section 42-101 for age requirement) which are derived from participation in JTPA programs shall be disregarded from consideration as income for both eligibility and grant determinations for up to six months per calendar year. This disregard also applies when determining the 185 percent income limit for eligibility (see Section 44-207).

•212 When the six-month disregard has expired and the child is a student, his/her earnings from JTPA shall be disregarded for financial eligibility and grant computation, but not for the 185 percent income limit pursuant to Section 44-111.22.

Authority: Welfare and Institutions Code Section 10553

Reference: AB 1557, Stats. 1984, Chapter 1447 (codified in Welfare and Institutions Code Sections 11267); Public Law 98-369, Section 2621, (July 18, 1984), 98 Stat. 1134, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 602(a)(18)]; 49 Federal Register 35600 (1984) [codified in 45 CFR 233.20(a)(3)(xiii)]

(10FM) Amend MPP Section 44-111.224 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME 44-111

•2 Exemption of Earned Income -- AFDC (Continued)

•22 Student Exemption (Continued)

•224 This exemption is applied for purposes of financial eligibility (see Section 44-207.3) and for purposes of grant determination whether or not the student has received aid previously. When determining the 185 percent income limit, this exemption is applied for up to six months per calendar year under for non-JTPA-related earnings per Section 44-207.211(d). See Section 44-111.21 for JTPA exemption.

Authority: Welfare and Institutions Code Section 10553.

Reference: AB 1557, Stats. 1984, Chapter 1447 [codified as Welfare and Institutions Code Sections 11008.15 and 11257]; Public Law 98-369; Sections 2621, 2642 (July 18, 1984), 98 Stat. 1134, 1146, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 602(a)(18) and 42 USC 602(a)(8)(A)]; 49 Federal Register 35600, 35601 (1984) [codified in 45 CFR 233.20(a)(3)(xix) and 45 CFR 233.20(a)(11)(vi)]

(11) Amend Section 44-111.232(a) to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

.2 Exemption of Earned Income -- AFDC (Continued)

.23 30 and 1/3 (Continued)

.232 The \$30 and 1/3 disregard shall not be applied
when:

(a) The 185 percent income limit is being
determined as outlined in Section 44-207.2.

Authority: Welfare and Institutions Code Section 10553.

Reference: AB 1557, Stats. 1984, Chapter 1447 (codified as
Welfare and Institutions Code Section 11267);
Public Law No. 98-369, Section 2621 (July 18,
1984), 98 Stat. 1134, 1984 U.S. Code Congressional
and Administrative News, No. 6A [codified as 42
USC 602(a)(18)]; 49 Federal Register 35600 (1984)
[codified in 45 CFR 233.20(a)(3)(xiii)]

(12FM) Renumber MPP Section 44-111.24 to .25 and adopt new Section 44-111.24 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

.2 Exemption of Earned Income -- AFDC (Continued)

.25 College Work Study Program

Earned income from the College Work Study Program is exempt. This exemption is applied for both eligibility and grant determination whether or not the student has received aid previously.

.24 \$30 Disregard

.241 Then the recipient has received the \$30 and 1/3 disregard in any assistance unit for four consecutive months as provided in .23 above, he/she shall be eligible for a \$30 disregard for a period of eight consecutive months immediately following the end of the four consecutive months. This applies to both financial eligibility and grant computations.

.242 If for any reason the recipient does not receive the \$30 disregard in a month (e.g., ineligible for aid, terminated employment, late reporting etc.), that month shall nonetheless count as one of the eight consecutive months. See 44-113.218. If the recipient's aid is restored before the eight months have expired, he/she would be entitled to the \$30 disregard for the remaining months in this period.

Example: A recipient works and is eligible for and has received the \$30 and 1/3 disregard for four consecutive months. At the end of the fourth month the recipient lost the job. Two months later he/she goes back to work. The recipient is then eligible for the \$30 disregard for the six remaining months.

(1) WORKS	(2) WORKS	(3) WORKS	(4) WORKS	(5) NO JOB	(6) NO JOB
\$30 & 1/3	\$30 & 1/3	\$30 & 1/3	\$30 & 1/3	None	None
(7) WORKS	(8) WORKS	(9) WORKS	(10) WORKS	(11) WORKS	(12) WORKS
\$30	\$30	\$30	\$30	\$30	\$30

•243 When the additional eight consecutive month period has expired, a recipient shall not be entitled to receive the \$30 disregard again until he/she has not received AFDC for twelve consecutive months.

•244 For purposes of implementing the \$30 disregard specified in Section 44-111.241 above effective October 1, 1984, the \$30 disregard shall not be allowed for a recipient who received the \$30 and 1/3 disregard as specified in Section 44-111.23 for four consecutive months ending prior to October 1, 1984.

Authority: Welfare and Institutions Code Sections 10553, 10554; Stats 1984, Chapter 1447, Section 14.

Reference: Public Law 98-369, Section 2623 (July 18, 1984); 98 Stat 1134, 1984 U.S. Code Congressional and Administrative News No. 6A; 45 CFR Section 233.20(a)(11)(ii)(B) (49 Federal Register 35593-35594, 35601, September 10, 1984).

(13) Amend MPP Section 44-111.3c(1) to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

3 Exemption of Payments from Public Sources (Continued)

c. Job Training Partnership Act (JTPA) (Continued)

- (1) Payments, other than earnings, to a child (see Section 42-101 for age requirement) which are derived from participation in JTPA programs shall be disregarded as income for both eligibility (including the 185 percent income limit) and grant determinations. There is no time limit for this disregard. This disregard does not apply to earnings paid under the Act (see Section 44-111.21).

Authority: Welfare and Institutions Code Section 10553.

Reference: AB 1557, Stats. 1984, Chapter 1447 (codified in Welfare and Institutions Code Section 11267); Public Law No. 98-369, Section 2621, (July 18, 1984), 98 Stat 1134, 1984 U.S. Code Congressional and Administrative News, No. 6A, [codified as 42 USC 602(a)(18)]; 49 Federal Register 35600 (1984) [codified in 45 CFR 233.20(a)(3)(xiii)].

(14) Adopt MPP Section 44-111.47 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION 44-111
AS INCOME (Continued)

.4 Exclusions or Exemptions of Other Payments and Income
(Continued)

.47 Child[/Spousal] Support Disregard

The first \$50 per month of current child[/spousal] support paid to or on behalf of an assistance unit shall be disregarded when determining both eligibility and grant amount. [This disregard applies only to current child support payments and does not apply to spousal support or to child support payment other than current payments.] See Section 42-213.2(k).

.471 When the child[/spousal] support payment is received by the county, the amount of the current support payment which is paid to the assistance unit shall be disregarded. This disregard is applied in the month in which the child[/spousal] support payment is received by the county for eligibility determination and applied in the month in which the disregard payment is received by the assistance unit, if different, for eligibility and grant determination.

.472 When [the a current] child[/spousal] support payment is directly received by the assistance unit from the absent parent, the first \$50 of such payment is disregarded and the balance of the support payment is considered income to the assistance unit. [See Section 43-201.31HB]

.473 The total amount of the current child[/spousal] support disregard attributable to any month shall not exceed \$50 per assistance unit regardless of whether the child[/spousal] support is received by the county, with a portion paid to the assistance unit, or the [child] support [payment] is received by the assistance unit directly. If in the same month the assistance unit receives a disregard payment from the county attributable to a prior month and also receives a current [child] support payment directly from an absent parent[/spouse], the assistance unit shall be entitled to both disregards. If the assistance unit receives a payment from the county which consists of payments

from current child[/spousal] support for more than one month, the \$50 limit shall apply only to the total child[/spousal] support disregarded for the month to which the disregard is attributable.

For example, the county received current child[/spousal] support payments of \$150 in January, \$150 in February and issued the assistance unit a payment of \$100 in March. The total \$100 shall be disregarded in March for purposes of determining eligibility and grant since it is attributable to January and February.

Authority: Welfare and Institutions Code Section 10553; AB 1557, Stats 1984, Chapter 1447, Section 14.

Reference: Public Law No. 98-369, Section 2640 (July 18, 1984), 98 Stat. 1145, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 675(b)]; 49 Federal Register 35600 (1984) [codified in 45 CFR 232.20 and 45 CFR 233.20(a)(4)(ii)(j)].

* The revisions enclosed in brackets were adopted via separate Department of Social Services (DSS) emergency regulations entitled "ORD 1184-52/DEFRA 2" effective January 18, 1985. See Item 1 of the DSS Notice of March 6, 7, and 8, 1985 Public Hearing (January 18, 1985 edition of the California Administrative Notice Register).

(15) Amend MPP Section 44-113.211 to read:

44-113 NET INCOME (Continued)

44-113

•2 Earnings (Continued)

•21 Computation of Net Nonexempt Earned Income for Aid to Families with Dependent Children

To determine the amount of Net Nonexempt Earned Income for the month, the following steps shall be taken:
(Continued)

- 211 Determine the total amount of commissions, wages or salary earned as an employee during or applicable to the month (i.e., total income irrespective of expenses, voluntary or involuntary deductions). Include any actual advanced EIC payments. See Section 44-101.32. To determine total earnings for the month, some earnings may have to be allocated to the month pursuant to Section 44-102. Also, the monetary value of any in-kind earned income per Section 44-115 shall be included. Do not include earnings exempted in entirety under Section 44-111.22.

Authority: Welfare and Institutions Code Section 10553; AB 1557, Stats. 1984, Chapter 1447, Section 14.

Reference: Public Law No. 98-369, Section 2629 (July 18, 1984), 98 Stat. 1137, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 602(d)(1)]; 49 Federal Register 35601 (1984) [codified in 45 CFR 233.20(a)(6)(ix)].

(16FM) Amend MPP Section 44-113.214 to read:

44-113 NET INCOME (Continued)

44-113

•2 Earnings (Continued)

•21 Computation of Net Nonexempt Earned Income for Aid to Families with Dependent Children

To determine the amount of Net Nonexempt Earned Income for the month, the following steps shall be taken:
(Continued)

- 214 Apply the standard work expense disregard of \$75 for the month the income was earned to the amount in •213 for each recipient employed or self-employed in the month to which the earnings are attributable.

Authority: Welfare and Institutions Code Section 10553; AB 1557, Stats. 1984, Chapter 1447, Section 14.

Reference: Public Law 98-369, Section 2622, (July 18, 1984), 98 Stat. 1134, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 602(a)(8)(A)(ii)]; 45 Federal Register 35601 (1984) [codified in 45 CFR 233.20(a)(11)(i)(B)].

(17) Adopt new MPP Section 44-113.217, amend and renumber current MPP Section 44-113.217 to .218, renumber current MPP Section 44-113.218 to .219 and amend MPP Section 44-113.22 to read:

44-113 NET INCOME (Continued)

44-113

.2 Earnings (Continued)

.21 Computation of Net Nonexempt Earned Income for Aid to Families with Dependent Children

To determine the amount of Net Nonexempt Earned Income for the month, the following steps shall be taken:
(Continued)

- .217 For each recipient who is eligible to receive the additional \$30 disregard, subtract \$30 from the amount remaining after application of .214 and .215 above (see Section 44-111.24).
- .218 The deductions in .214, .215, .216, and .217 shall not be allowed if the recipient: (1) failed to make a timely report of earned income that month as required by Sections 40-125.922 and 40-181.22; or (2) terminated employment, reduced earnings or refused employment without good cause within the budget period or the 30 days immediately prior to the budget period. (Good cause shall be evaluated using the standards defined in Section 41-442.113); or (3) voluntarily requests a discontinuance for the primary purpose of avoiding the 4 consecutive month limitation on receipt of the \$30 and 1/3 disregard.
- .219 Add together the amounts remaining after application of the above sections for each recipient. This total is net nonexempt earned income for the FBU.
- .22 Example. An FBU consists of a mother, two preschool children and two teenage sons, ages 15 and 16. The 15 and 16-year olds are not in school.

The mother is employed for 20 days, works over 100 hours, and earns \$600. The 15 year old son earns \$170 and the 16 year old earns \$140. Child care expenses are \$160 for the first pre-school child and \$130 for the second. The mother is no longer eligible for the \$30

and 1/3 disregard, but is still eligible for the \$30 disregard. Her teenage sons are eligible for the \$30 and 1/3 disregard. Net nonexempt earned income for the month is computed as follows:

Step (1) Compute remainders for each recipient.

(a) For the mother:

\$600	gross wages
- 75	standard work expense disregard
-160	child care for first preschooler
-130	child care for second preschooler
<u>- 30</u>	disregard

\$ 205 remainder for mother

(b) For the 15-year-old:

\$170	gross wages
- 75	standard work expense disregard
<u>- 52</u>	\$30 plus 1/3 deduction

\$ 43 remainder for 15-year-old

(c) For the 16-year-old:

\$140	gross wages
- 75	standard work expense disregard
<u>- 42</u>	\$30 plus 1/3 deduction

\$ 23 remainder for 16-year-old

Step (2) Combine remainders for each recipient

(a)	\$ 205	mother
(b)	\$ 43	15-year-old
(c)	+ <u>\$ 23</u>	16-year-old
(d)	\$ 271	net nonexempt earned income of the household.

Authority: Welfare and Institutions Code Sections 10553 and 10554; AB 1557, Stats. 1984, Chapter 1447, Section 14.

Reference: Public Law 98-369, Sections 2622 and 2623 (July 18, 1984); 98 Stat. 1134, 1984 U.S. Code Congressional and Administrative News No. 6A; 45 CFR Sections 233.20(a)(11)(i)(B) and 233.20(a)(11)(ii)(B) (49 Federal Register 35601, September 10, 1984).

(18) Amend MPP Section 44-113.7 to read:

44-113 NET INCOME (Continued)

44-113

- .7 Child Support which is paid to the recipient by the absent parent and not forwarded to the county or which is collected by the county and paid to the recipient pursuant to Section 43-203.13 and .15 shall be considered available income when received[except as specified in 44-111.47].

Authority: Welfare and Institutions Code Section 10553; AB 1557, Stats. 1984, Chapter 1447, Section 14.

Reference: Public Law No. 98-369 Section 2640 (July 18, 1984), 98 Stat. 1145, 1984 U.S. Code Congressional and Administrative News, No. 6A [codified as 42 USC 675(b)]; 49 Federal Register 35600 (1984) [codified in 45 CFR 232.20 and 45 CFR 233.20(a)(4)(ii)(j)].

- * The revisions enclosed in brackets were adopted via separate Department of Social Services (DSS) emergency regulations entitled "ORD 1184-52/DEFRA 2" effective January 18, 1985. See item 1 of the DSS Notice of March 6, 7, and 8, 1985 Public Hearing (January 18, 1985 edition of the California Administrative Notice Register).

(19) Amend MPP Section 44-133.31 to read:

44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

.3 Income in Cases in Which a Parent or Other Caretaker Has Been Excluded from the FBU (Continued)

.31 If a parent living in the home is excluded from the Family Budget Unit for reasons other than being a recipient of another aid program, a portion of his/her income is income to the Family Budget Unit. This portion is determined as follows:

.311 Determine the parent's net nonexempt income according to Chapter 44-100. Allow disregards in Section 44-113 except the \$30 and 1/3 or, as applicable, the \$30 disregard.

.312 Subtract the maximum aid for the number of persons in the FBU, excluding the parent, from the maximum aid for the persons in the FBU, including the parent. To this difference add any allowable recurring special needs for the excluded parent if such needs are verified. The maximum amount allowed for recurring special needs for the excluded parent shall not exceed \$10.

.313 Subtract the figure determined in .312 from income determined in .311 above. The remaining amount is income to the FBU.

Example: A parent with earned income is excluded from the FBU which consists of three children. Monthly gross earned income is \$350. Assume MAP for 3 is \$506 and MAP for 4 is \$601.

Gross Income	\$350
Standard Work Expense Disregard (See Section 44-113.214)	<u>- 75</u>
Net Income	\$275

MAP for 4	\$601 *
MAP for 3	<u>-506 *</u>
MAP Differential	\$ 95
Verified Special Needs	<u>+ 9</u>
	\$104

Net Income	\$275
MAP Differential + Verified	
Special Needs	<u>-104</u>
Income to FBU	\$171
 MAP for 3	 \$506 *
Income to FBU	<u>-171</u>
Grant	\$335

*MAP amounts are subject to change. Use currently applicable amounts specified in 44-315.411.

[*314 When an excluded parent's needs are met by a stepparent, that portion of the excluded parent's income counted as income to the FBU is determined by subtracting from gross income all disregards allowed in Section 44-113 except the \$30 and 1/3 or, as applicable, the \$30 disregard. The remainder is income to the FBU.

Authority: Welfare and Institutions Code Sections 10553 and 10554; Stats. 1984, Chapter 1447, Section 14.

Reference: Public Law 98-369, Sections 2622 and 2623 (July 18, 1984) 98 Stat. 1134, 1984 U.S. Code Congressional and Administrative News No. 6A; 45 CFR Sections 233.20(a)(11)(i)(B) and 233.20(a)(11)(ii)(B) (49 Federal Register 35601, September 10, 1984).

* The revisions enclosed in brackets were adopted via separate Department of Social Services (DSS) emergency regulations entitled "ORD 1184-52/DEFRA 2" effective January 18, 1985. See Item 1 of the DSS Notice of March 6, 7, and 8, 1985 Public Hearing (January 18, 1985 edition of the California Administrative Notice Register).

(20) Amend MPP Sections 44-133.631(a) to read:

44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

.6 Income in Cases Where a Stepparent Resides In The Home.
(Continued)

.63 Computation of Income to the FBU (Continued)

.631 The stepparent's income deemed available to the FBU is determined as follows: (Continued)

(a) Determine the stepparent's net nonexempt income according to the provisions in Chapter 44-100. When determining net earned income the stepparent shall be entitled to a work expense disregard as follows:

- (1) When the stepparent worked at least 100 hours and at least 13 days in the month to which the earnings are attributable, allow a \$75 disregard.
- (2) When the stepparent worked less than 100 hours or less than 13 days in the month to which the earnings are attributable, allow a \$50 disregard.
- (3) When the hours and days are not reported on the CA-7, but information provided is sufficient to determine that the stepparent was employed at some time during the month, apply the \$50 disregard.

The dependent care expense disregard in Section 44-113.215 and the \$30 and 1/3 and, as applicable, the \$30 disregard in Section 44-113.216 and 44-113.217 shall not be allowed.

Authority: Welfare and Institutions Code Sections 10553 and 19554; Stats. 1984, Chapter 1447, Section 14.

Reference: Public Law 98-369, Sections 2622 and 2623 (July 18, 1984) 98 Stat. 1134, 1984 U.S. Code Congressional and Administrative News No. 6A; 42 USC Section 602(a)(31); 45 CFR Section 233.20(a)(11)(i)(B) and 233.20(a)(11)(ii)(B) (49 Federal Register 35601, September 10, 1984); 45 CFR Section 233.20(a)(3)(xiv)(A).

(21) Amend MPP Sections 44-133.91 and .93 to read:

44-133 TREATMENT OF INCOME - AFDC (Continued)

44-133

- .9 Income in cases where the spouse of an aided married child resides in the home and is excluded from the FBU.

If the spouse of an aided married child resides in the same home as the married child and is excluded from the FBU, a portion of the spouse's income is income to the Family Budget Unit (FBU). This portion is determined as follows:
(Continued)

- .91 Determine the spouse's net nonexempt income according to Chapter 44-100. Allow earned income disregards in Section 44-113, except the \$30 and 1/3 or, as applicable, the \$30 disregard.
- .92 Subtract the maximum aid for the number of persons in the FBU excluding the spouse from the maximum aid for the persons in FBU including the spouse. To this difference add any allowable recurring special needs for the spouse if such needs are verified. The maximum amount allowed for recurring special needs for the spouse shall not exceed \$10.
- .93 Subtract the figure determined in .92 from income determined in .91 above. The remaining amount is income to the FBU.

Example: A spouse of an aided married child resides with the FBU which consists of three people.

The spouse's monthly gross earned income is \$350. Assume the MAP for 3 is \$506 and MAP for 4 is \$601.

Gross Income	\$350
Standard Work Expense Disregard (See Section 44-113.214)	<u>- 75</u>
Net Income	\$275
MAP for 4	\$601 *
MAP for 3	<u>-506 *</u>
Difference in MAPs	\$ 95
Verified Special Needs	<u>+ 9</u>
	\$104
Net Income	\$275
Difference in MAPs + Verified	

Special Needs	<u>-104</u>
Income to FBU	<u>\$171</u>
MAP for 3	\$506 *
Income to FBU	<u>-171</u>
Grant	<u>\$335</u>

*These MAP amounts are subject to change. Use current MAP values for the appropriate size FBU specified in 44-315.411.

Authority: Welfare and Institutions Code Sections 10553 and 10554; Stats. 1984, Chapter 1447, Section 14.

Reference: Public Law 98-369, Sections 2622 and 2623 (July 18, 1984) 98 Stat. 1134, 1984 U.S. Code Congressional and Administrative News No. 6A; 45 CFR Sections 233.20(a)(11)(i)(B) and 233.20(a)(11)(ii)(B) (49 Federal Register 35601, September 10, 1984).

(22) Amend MPP Section 44-207.113, .121 and .2 to read:

44-207 INCOME ELIGIBILITY

44-207

.1 General (Continued)

.11 Minimum Basic Standard of Adequate Care (MBSAC)
(Continued)

.113 The amount of 185% of the MBSAC shall be computed by multiplying the appropriate MBSAC amount by a factor of 1.85 and if the product does not end in a whole dollar amount, a remainder of 50 cents or more shall be rounded off to the next whole dollar and a remainder of 49 cents or less shall be disregarded.

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(a) Effective October 1, 1984, the amount of 185 percent of the MBSAC shall be as follows:

Size of FBU	185% of Minimum Basic Standard of Adequate Care
1	\$ 503
2	829
3	1,027
4	1,221
5	1,393
6	1,567
7	1,719
8	1,874
9	2,031
10	2,207

.12 Determination of Income Source (Continued)

.121 If the income is received from a recurring income source, apply the 185 percent income limit (See .2 below). If income does not exceed the 185 percent limit, determine financial eligibility (See .3 below).

.122 (Continued)

.13 (Continued)

.2 185 Percent Income Limit for Eligibility

.21 Description of 185 Percent Income Limit

The FBU is ineligible any month in which the total reported or anticipated gross income of the family for that month exceeds 185 percent of the combined Minimum Basic Standard of Adequate Care (MBSAC) and the value of any special needs. When the gross income includes the income of a parent living in the home but not included in the FBU, the MBSAC shall be increased by one (1) for such individual.

.211 After application of the appropriate exemptions and exclusions not otherwise precluded by this section, income considered in the 185 percent income limit is the total of gross income as defined in Chapter 44-100. For purpose of the 185 percent income limit, the following exceptions shall apply:

- (a) The standard work expense, dependent care expense and the \$30 and 1/3 and, as applicable, the \$30 disregards shall not be applied to earned income. See Section 44-113.2.
- (b) The child[/spousal] support collected by the county shall be included in gross income, except as specified in Section 44-111.47.
- (c) The total gross income of excluded parents, without the disregards and exemptions in Section 44-133.3 shall be included in gross income.
- (d) The earnings of children who are full time students and/or earnings of children derived from participation in JTPA programs shall be disregarded for up to six months per calendar year (see Sections 44-111.21 and .22). Up to 12 months of disregards are available per calendar year but no more than six months are available for JTPA-related employment and another six months for non-JTPA-related employment. Unearned income of a child derived from participating in JTPA is totally disregarded with no limitation on time. See Section 44-111.3c.

- (e) The gross income from self-employment shall be adjusted for expenses directly related to production of goods and services before it is counted as gross income. See Section 44-113.212.

.22 Applying the 185 Percent Income Limit

The 185 percent income limit shall be applied to reported income and anticipated income.

.221 Reported Income

- (a) When the income for the budget month reported on the Monthly Eligibility Report (CA 7) exceeds the 185 percent income limit for that month, the FBU shall be ineligible.
- (b) When the income results in ineligibility for the FBU and it appears that this level of income will continue, aid shall be discontinued as soon as administratively possible. Any aid payments received for the month the excess income was received and for the subsequent month are overpayments.
- (c) When the income results in ineligibility for the FBU and it appears this level of income will not continue, the FBU's aid payment shall be suspended for the payment month. See Section 44-315.6.
- (d) When the income received in the first or second month of aid exceeds the 185 percent income limit and it appears this level of income will not continue, any aid payment received by the FBU in the month the excess income was received is an overpayment. See Section 44-313.1.

.222 Anticipated Income

- (a) The 185 percent income limit shall be applied to the county's estimate of total gross income expected to be received in the payment month.
- (b) When the estimated income exceeds the 185 percent income limit, the FBU shall be

ineligible for the payment month and aid shall be discontinued. For a month in which income is to be retrospectively budgeted (see Section 44-313.2) and for purposes of applying Section 44-207.222 only, estimated income shall not include the anticipated receipt of a regular and periodic extra paycheck.

- (c) When aid is discontinued because the estimated total income is expected to result in ineligibility and the recipient reports this amount of income is not actually received, the county shall rescind the discontinuance and issue the correct grant.

Authority: Welfare and Institutions Code Sections 10553 and 10554; Stats. 1984, Chapter 1447, Section 14.

Reference: Welfare and Institutions Code Sections 11008.15 and 11267 (Stats. 1984, Chapter 1447, Sections 3 and 7); Public Law No. 98-369, Sections 2623, 2629, and 2640, (July 18, 1984) 98 Stat. Sections 1134, 1137, and 1145, 1984 U.S. Code Congressional and Administrative News No. 6A; 45 CFR Sections 233.20(a)(3)(xiii), 233.20(a)(3)(xix), 233.20(a)(4)(ii)(j), 233.20(a)(6)(ix) and 233.20(a)(11)(i)(B) and (ii)(B) (49 Federal Register 35600-35601, September 10, 1984).

- * The revisions enclosed in brackets were adopted via separate Department of Social Services (DSS) emergency regulations entitled "ORD 1184-52/DEFRA 2" effective January 18, 1985. See Item 1 of the DSS Notice of March 6, 7, and 8, 1985 Public Hearing (January 18, 1985 edition of the California Administrative Notice Register).

(23) Amend MPP Section 44-352.121 to read:

44-352 OVERPAYMENT RECOUPMENT (Continued)

44-352

.1 Calculation of the Overpayment (Continued)

.12 Overpayment due to income or need or circumstances other than excess property (Continued)

- .121 Compute the correct grant amount based on correct information for the month involved in the overpayment. If the recipient was totally ineligible for that month, the correct grant amount is zero (0).

In this computation, allow all earned income disregards (including the \$30 and 1/3 and, as applicable, the \$30 disregard) which would have been allowed if the grant had been computed correctly. If the overpayment occurred after October 1981 and was discovered on or after April 2, 1982 and if the overpayment is due to any earned income that the recipient failed, without good cause, to report timely, no earned income disregards shall be allowed for that individual in that month (see Section 44-113.218).

Authority: Welfare and Institutions Code Sections 10553 and 10554; Stats. 1984, Chapter 1447, Section 14.

Reference: Public Law 98-369, Section 2623 (July 18, 1984) 98 Stat. 1134, 1984 U.S. Code Congressional and Administrative News No. 6A, 45 CFR 233.20(a)(11)(i)(B) and (ii)(B) (49 Federal Register 35601, September 10, 1984).

ORD 0884-37

Rulemaking File

Exhibit M- 5

"ORD 1184-58/DEFRA 2" revisions filed/
effective January 18, 1985